

PROCEDURES COMMITTEE

Tuesday 7 January 2003
(*Morning*)

Session 1

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PROCEDURES COMMITTEE

1st Meeting 2003, Session 1

CONVENER

*Mr Murray Tosh (South of Scotland) (Con)

DEPUTY CONVENER

*Mr Kenneth Macintosh (Eastwood) (Lab)

COMMITTEE MEMBERS

Susan Deacon (Edinburgh East and Musselburgh) (Lab)

*Donald Gorrie (Central Scotland) (LD)

*Fiona Hyslop (Lothians) (SNP)

*Paul Martin (Glasgow Springburn) (Lab)

*Mr Gil Paterson (Central Scotland) (SNP)

COMMITTEE SUBSTITUTES

Phil Gallie (South of Scotland) (Con)

Trish Godman (West Renfrewshire) (Lab)

Richard Lochhead (North-East Scotland) (SNP)

*attended

CLERK TO THE COMMITTEE

John Patterson

ASSISTANT CLERK

Lewis McNaughton

LOCATION

Committee Room 4

Scottish Parliament

Procedures Committee

Tuesday 7 January 2003

(Morning)

[THE CONVENER *opened the meeting at 09:38*]

Consultative Steering Group Inquiry

The Convener (Mr Murray Tosh): Welcome to the first meeting in 2003 of the Procedures Committee. I wish everybody the very best for the new year. We have received apologies from Susan Deacon and the clerk, John Patterson. Gil Paterson has apologised for being late—his train is delayed. We will have to refer him to a car dealer.

We will deal first with the papers that committee members have submitted—I am looking frantically for my copies. The first in my pile is Fiona Hyslop's paper. Some of the points in the paper have been taken care of already, as we have covered quite a lot of the ground in the paper since it was produced. However, when I checked through it yesterday evening, I found areas that had yet not been covered.

We are in your hands, Fiona. Would you take us through the paper?

Fiona Hyslop (Lothians) (SNP): I seek your guidance on which points in the paper you think have been dealt with and whether they were dealt with positively or knocked back.

The Convener: I have annotated my copy of the paper to indicate which points I think we have taken care of, so I will assist in determining that.

Fiona Hyslop: The first point is on equal opportunities and goes back to the question of co-option on to committees. There are probably two approaches to that issue. The first is a suggestion, which I think Donald Gorrie made, that we try to find a mechanism to facilitate co-option within the existing legislation. The second suggestion, which is the one in my paper, is that we need to amend the Scotland Act 1998. The question is whether we want to make that recommendation. If we do, we should either give notice that Westminster should make that amendment, because it has responsibility for the Scotland Act 1998, or we should say that self-management of the Parliament is an aspect of the Scotland Act 1998 that should be devolved. That is, housekeeping issues should be under the Scottish Parliament's control.

There are a few aspects to the point, but the general thrust is apparent to everybody.

The Convener: You will remember that we discussed that previously under two headings. We discussed co-option, on which we were not agreed, and we discussed it again, by implication, when we discussed gaining full control of our own procedures. To try to advance that debate, I have drafted new text for the section on power sharing. It might be efficient to consider the matter now in isolation. The text to which I refer is in paragraphs 587 to 589. I tried to set out the context first and then to deal with the issue. I have not attempted to deal with co-option as such but, by cross-referring to control of our own procedures, I have dealt with it as an issue that the Parliament should be entitled to resolve.

I have dealt with the consultative steering group's approach in paragraph 587, where I indicate that the CSG envisaged co-option as an important contribution to power sharing. However, as paragraph 588 says, when we considered the legislation on the matter—the then conveners liaison group raised the issue originally, specifically with regard to ethnic minority representation on the Equal Opportunities Committee—the legal advice was that it was not possible: co-option requires an amendment to the Scotland Act 1998.

Paragraphs 587 and 588 contain rewritten text, but paragraph 589 is substantially new. It is worth taking a minute to go through it.

"Many of those who gave evidence referred to the power of co-option as a component of the CSG's agenda for power-sharing. We recognised the breadth, and the strength, of the evidence given on this point, but we came to no agreement on whether the Scotland Act should be amended to allow co-options, or to enhance the ability of advisers to participate in the work of Committees",

which is a similar point.

"We did conclude that co-option itself was only part of the substantive issue, and that the key question is whether this Parliament should be frustrated in pursuing procedural innovations because of its inability to amend the Scotland Act. We return below to the question of whether the Scotland Act should be amended to allow the Scottish Parliament full control over its own procedures."

That refers to a later paragraph that we agreed on our first run-through and which says that we think that the Scotland Act 1998 should be amended to allow us to control our internal procedures. Paragraph 589 avoids making any statement about co-option, other than to say that, if we had the power to determine the question, we could do so. That may or may not be strong enough for Fiona Hyslop. I approached the matter from the standpoint that it was clear from the full discussion that we had on co-option that the committee would be split down the middle on that issue.

Fiona Hyslop: I would be interested to know what everybody else thinks.

Donald Gorrie (Central Scotland) (LD): The concept that the Scottish Parliament should have control of its internal affairs is a good one. When the Scotland Act 1998 was going through the Westminster Parliament, there were fears that we might turn out to be a bunch of complete bampots and do all sorts of silly things. I think that we have demonstrated that we are not bampots and that we do not do silly things. Therefore, we should be allowed to control our internal affairs.

On the specific issue of co-option, the first of the three wee suggestions that I make in my paper—which Mr Blackadder's assistant Baldrick might describe as a cunning plan—is a method of trying to circumvent the Scotland Act 1998. Rather than our wasting time debating that suggestion today, could the officials pursue the issue of whether my proposed route is legitimate? If it is, and if the committee thinks that it is a good idea, perhaps the committee could pursue it.

09:45

The Convener: I do not think that the clerk has taken any legal advice on your suggestion yet; however, his view is the same as mine. A sub-committee is the same as a committee when it comes to being part of the parliamentary process. If a co-optee cannot be placed on a committee, it will not be possible to place one on a sub-committee. To get round that, the committee would have to be changed into an informal forum that might consist of committee members and such co-optees as are asked to participate. However, the co-optees could not be part of the formal parliamentary process. That is my reading of the situation, off the top of my head, and that is how the clerk sees the matter, although I stress that we have not sought any legal judgment on it.

Donald Gorrie: The key phrase seems to be "the proceedings" of Parliament. I argue that if a meeting is not recorded, it is not part of the proceedings of Parliament.

The Convener: Ah, but it is. Meetings that are held in private are not on the record, but they are definitely part of proceedings.

Donald Gorrie: Yes. However, no record is kept if we or other committees visit people.

The Convener: Those are not formal committee meetings. If a formal meeting were constituted off campus, it would be minuted and would be part of the Parliament's proceedings, whether or not it was officially reported. Most of the meetings of the type to which you refer are meetings of an informal nature and give us much greater flexibility to have dialogue and interchange with people outside the Parliament. It is at that stage, in meetings that are

not part of the formal proceedings of Parliament, that somebody could be involved in the way that you suggest—at least, they could be under the existing legislation.

The legal interpretation founds on the specific permission that is written into the 1998 act for the Lord Advocate and the Solicitor General for Scotland, who are non-members, to take part in parliamentary proceedings. The interpretation is that, as those people specifically—but no one else—are so empowered, there is a proscription on anybody else being involved in any formal process of the Parliament.

Donald Gorrie: Okay. I will try to redraft my suggestions.

The Convener: We will have the matter checked out. However, our initial thinking was that there is no way of tweaking the rules. We think that the primary legislation would have to be amended. If it were amended to give the Parliament control over its procedures, it would depend on the terms in which the legislation were framed whether there could be a procedural change or whether the Scottish Parliament would have to introduce a bill to amend sections of the Scotland Act 1998. I do not know. I am hawking because I have not pursued that issue at all, but such questions would have to be considered.

Fiona Hyslop: I suggest that, if there is agreement that there are basic housekeeping issues—we are not talking just about co-option, but about other issues over which we think the Parliament should have control—there should be no difficulty with including those three points in the section on power sharing. The question is whether we should try to do anything in the interim along the lines that Donald Gorrie has suggested. I am quite happy to agree to his three suggestions with a view to pursuing—or encouraging the next Parliament to pursue—anything else that is doable.

The Convener: I hoped that paragraphs 587 to 589 would be agreed to, as they reflect fairly faithfully the origins of the issue and the discussion that we held in a previous meeting. They repeat the recommendation about repatriating our internal procedures and specifically defer the co-option issue as something on which we have not agreed but which would be returned to by a future committee or a future Parliament in the event that it was agreed to give us control over our internal procedures. In effect, the recommendation defers consideration of the specific issue of co-option. The question for members of the committee is whether they want to make a stronger recommendation, to the effect that the committee wants to recommend that the procedure should be amended in the fullness of time.

Paul Martin (Glasgow Springburn) (Lab):

Everyone would welcome the input of people from any minority, in particular ethnic minorities, but we have to be clear about whether that would be a token gesture. We could enable co-option of members, but what would that achieve? We have not provided evidence about that in practice. Committee members have raised concerns about the participation of co-opted members—non-MSPs—of committees and the opportunities to abuse such a system. I am not referring specifically to ethnic minorities but to the participation of any non-member in committee proceedings. We are in a privileged position. I do not mean to sound self-important but it is a privilege to be a member of the Scottish Parliament and to be democratically elected.

We must consider carefully the issue of people who are not democratically elected taking part in parliamentary proceedings. We are often accused of making tokenistic gestures. We might enable a non-MSP to be part of a committee, but how effective would that be? How would they be selected? How representative would they be of a particular community, whether they were from an ethnic minority or from any other minority? We would face serious challenges over how the co-opted members would be selected and whether we were being tokenistic. I am not aware of any evidence on the effectiveness of such participation. Non-MSPs take part in discussions with MSPs in cross-party groups. One of the issues that the Standards Committee is considering is the effectiveness of cross-party groups, but there is a wider issue. We should not treat the principle of co-option as being an end to all our problems. Throwing in co-option will not solve all the problems that we are perceived to have.

Mr Kenneth Macintosh (Eastwood) (Lab):

I am sympathetic to the spirit of co-option, although the fundamental flaw to which Paul Martin alluded is that all MSPs are equal—we have equal powers and equal status—but a co-opted member would not be. We would have to work out exactly what status they would enjoy. There are definite difficulties with co-option, although we should try to adopt the spirit of the idea of power sharing and of getting members of the community to participate in the Parliament.

I whole-heartedly endorse the suggestion that has been made by Donald Gorrie and several other members that we should try to make the existing system work better. The committee has had a number of advisers, but advisers are in a strange position. They have had to sit dumb during committee meetings while they listened to committee members. They often have something important to say and it would help the flow of discussion if they had the opportunity to catch the

convener's eye or contribute on the record. We should state that we should try to improve the system of special advisers so that it works better.

I also believe that the idea that the Scottish Parliament should have full control of its own procedures is important, although the difficulty is that such control is not within our power. We could make a recommendation to that effect, but it would be up to Westminster to find time to deal with it, which it undoubtedly will do when it deals with the issue of MSP numbers and so on. I agree with the convener's changes to the report. We should buttress them with a recommendation not to amend the Scotland Act 1998 to enable co-option but, in the meantime, to try to improve the system of special advisers so that that, rather than co-option, is the fallback position.

The Convener: The difficulty with improving the position of advisers is that they fall within the same category as co-optees. They are non-members who participate in the proceedings of Parliament.

Members are probably well aware that when committees go into private session, clerks and advisers suddenly find their voices because their comments are not recorded in the *Official Report*. People feel able to participate in a much more relaxed manner in such sessions. However, advisers should contribute only when they are invited to give advice on a specific subject. Even that might be considered dubious, as it means treating advisers as witnesses to a committee inquiry.

I am not sure that the use of advisers could be taken much further without changes to the wording of the Scotland Act 1998. The act makes it clear that no people other than the two law officers are empowered to take part in parliamentary proceedings.

I appreciate Kenny Macintosh's point about buttressing the recommendation. We would all agree that we want advisers and parliamentary staff to contribute more freely to discussion in meetings than they do at present. However, I do not think that the committee will reach agreement on whether co-option should happen. The issue is whether we could satisfy ourselves with a general statement about repatriating procedures or whether we should make a specific recommendation.

The reason for singling out co-option is not because it is the be-all and end-all, but because many witnesses raised it in their evidence. During the CSG's discussions, there was a strong expectation that the power of co-option would exist. However, it does not, because such a power was not included in the legislation. I do not know whether that was an act of omission or of commission—I do not know whether the

Westminster Parliament took a decision that it would not give that power or whether its omission was an oversight.

There is no doubt that all sorts of organisations in civic society, which may or may not be fully representative of the interests that they purport to represent, see it as a major disappointment that they cannot be involved in committee discussions. They wanted to have influence because power sharing is an important principle and because they thought that they had expertise and information to assist MSPs in their deliberations. For those sectors of the Scottish community, the absence of co-option has been a severe disappointment. It is seen as one of the ways in which Parliament's performance has fallen short of expectations. The difficulty for this committee is that we do not control what happens.

The challenge for us is to decide whether to make a recommendation. In the text on power sharing, I have not made such a recommendation, although one was made in the initial run-through of the report. I do not think that we will get an agreement today, but it would be useful to talk about the matter further so that we can find the basis of something on which we can agree.

Paul Martin: It is important that we talk about advisers and their role.

The role of advisers is to provide information and advice to the committee—an adviser such as Professor Wortley might advise us on the Title Conditions (Scotland) Bill, for example—whereas an ethnic minority representative, or any other representative, would provide the view of their particular sector. Advisers and the representatives to whom Fiona Hyslop refers are quite separate. We need to be careful to distinguish between people whom we want to participate—people already participate in committee proceedings by catching the convener's eye—and Fiona Hyslop's suggested recommendation. We should be careful not to muddle up the two.

The Convener: Procedurally, the two are essentially in the same position.

Donald Gorrie: Paul Martin makes the important point that there are two separate issues. I would probably disagree with him on co-option, but on the point about liberating committee clerks and advisers, could the convener insert a sentence later about committees meeting in private, which is an issue that people have raised? Advisers and clerks cannot speak in public, but if we get better advice from them, and thus have better conversations, when a meeting is in private than when it is in public, that is an argument for allowing them to speak in public. That would remove one objection to committees meeting in public.

The Convener: The point is more that people break the rules when committees meet in private, because nobody knows about it. If we force the matter, the clerking department will tell the clerks that they should encourage conveners not to allow advisers to behave differently in private sessions from the way in which they behave in public sessions. That would be the legal interpretation. We cannot found too much on the fact that members think that they can talk freely when the public has gone, because although meetings might be run that way, they are not supposed to be.

10:00

Fiona Hyslop: Paragraph 589 reflects the fact that we had to comment on co-option because a number of witnesses mentioned the matter. The paragraph states that we have reached no

"agreement on whether the Scotland Act should be amended"

in that regard, which is correct. I think that the act should be amended, but Paul Martin probably thinks that it should not be. The practical fact is that, even if we think that the Scotland Act 1998 should be amended, we do not have the powers to do so. Perhaps we could put the issue into the context of housekeeping and control of internal procedures.

I am conscious that the convener wants to avoid pushing matters to a vote. Paragraph 589 reflects the view of the committee—we have not reached an agreement. Some of us think that the 1998 act should be amended and some of us think that it should not be. The best people to consider the issue are those who have powers to do something about it, which will either be at Westminster, or in the Scottish Parliament, if we seek to have the power repatriated.

Donald Gorrie: I have a comment on a point that Ken Macintosh raised. Could we suggest that a one-clause amendment be made to the proposed bill on the number of MSPs to say that the Scottish Parliament can control its internal affairs? Ken Macintosh is correct that, in Westminster, a bill that was intended purely to reform the Scottish Parliament would be down on the floor somewhere. However, if there is a bill anyway, perhaps a tightly drawn clause could be included to say that the Scottish Parliament can run its internal affairs. Is it worth while recommending that to the powers that be?

The Convener: That might be worth while as a way of flagging up the issue, but in practice I suspect that the bill to amend the number of MSPs will be so tightly drawn that it will not be capable of being amended, except in relation to the electoral process. It is unlikely that Westminster would

agree to consider a bill that could have such an amendment tacked on to it because that would open up the whole devolution settlement. Even if Westminster agrees, I am not sure that giving us control over our procedures would be achieved through a single-line amendment. I suspect that somebody would have to draw up a raft of amendments to stacks of sections and schedules in the 1998 act. I doubt that the matter would be as simple as inserting a clause in the proposed bill to say that the Scottish Parliament has control over its procedures.

Fiona Hyslop: There are other ways. An order in council can put items into schedule 5 to the Scotland Act 1998. That has happened on a number of occasions, for example, with the repatriation of powers relating to the post office. Primary legislation is not necessarily required to achieve the change. I agree that there might be issues about how tightly drawn the proposed bill on the number of MSPs is, but if we think that the Scottish Parliament should gain control over its internal affairs, there are other legal mechanisms through which that change could happen.

The Convener: That is an elegant idea. However, the 1998 act defined competencies and although competencies can be transferred by order in council, I am not sure that the procedures of the Scottish Parliament fall into that category.

We are wandering off into grey areas that are not within our competence or knowledge.

Mr Macintosh: If I remember correctly, Professor McCrone's paper mentioned the matter. He said that although the CSG's original argument was that we should have the power to co-opt people on to committees, that was ruled out after discussions with, and legal advice from, the civil service. If that is the case, although the objective is fairly direct, any bill or amendment to a bill to achieve the objective would not be simple.

The report should say that we would like to have the power to co-opt, although the matter will still be up to Westminster. I hope that we will buttress the point with further investigation into methods of improving, within the Parliament's present powers, the ability of advisers, clerks and others to participate in committee meetings. I know that the issue has been considered, but I do not think that it has been considered since the original legal advice was received when the Parliament was set up.

We should consider whether there is scope for more flexibility or for a formal mechanism that can be used at the start of meetings. For example, the convener might say, "I invite our special adviser to contribute at all stages of today's meeting." That would allow us to achieve the spirit of the idea and would mean that the fact that we cannot amend the 1998 act at present would not stop us.

The Convener: I can certainly have a think about that. My only concern is that it looks extremely weak. It might be better to stop where we are. Having gone round all the issues in the two full discussions on the point, members who feel that they want to press the co-option issue to the wire have the basis on which to go away and write something for the final stage. If members are happy with the text that I have suggested, I do not think that anyone's position is compromised. We are all agreed that we should have the right to determine these things, but we need to have that right before we can decide on co-option, so why do we not rest at that point? Those who feel that co-option is important are able to say that we have put in place a mechanism that, if delivered, would allow us to introduce co-option. Everyone ought to be reasonably happy with that. I appreciate that some people might feel that it is a point of such important principle that they want a specific recommendation in the report. I repeat that members can consider that for the final stage of the process. I suggest that we move on to Fiona Hyslop's next point.

Fiona Hyslop: I wrote this text in November—

The Convener: Yes, much of it has been overtaken.

Fiona Hyslop: The first point about the education service has been covered—text has been added to boost our recommendations on that point.

The Convener: We have added something about that, although I do not think that we have done so in respect of your third point.

Fiona Hyslop: It resulted from views that were expressed by the Disabled Persons Housing Service in particular. A number of organisations—public, private and voluntary sector—are involved in the work of the Parliament. Our clerking system is geared to helping witnesses and guiding them through the system. I understand that it would be appreciated if the Parliament funded some sort of pool support to help individuals and smaller organisations to understand how to put together submissions.

The Parliament has a budget for participation services and such pool support could form part of the outreach work of that department. We would need to undertake further work on how the proposal could operate in practice. We do not want such a service to be abused but, if we were to implement the proposal, it would make the point that we do not want access to the Parliament to be taken up only by the usual suspects. We should try to overcome what is perceived to be a bias against the individuals and smaller organisations that have never made contact with the Parliament.

The Convener: When I thought about the matter, I could not recollect the origins of that interesting suggestion. If we are trying to develop strategies to reach out to people and organisations that do not communicate with us at the moment, we need officers who are available to suggest how people might want to frame their points. Such support could be offered in respect of petitions, making submissions to committees or asking a committee to undertake a local investigation.

We need to consider how to assist people to navigate the parliamentary channels. I am sure that MSPs do that for people who have made contact with them but, if we are trying to stimulate the widespread involvement of civic Scotland in the work of the Parliament, something along those lines could be very helpful.

Fiona Hyslop: I was struck by comments that were made about Steve Farrell and the Public Petitions Committee—people said how useful they found his support and guidance. Although the clerks provide an excellent service, it is obvious that to a great extent they are tied up with internal bureaucracy. Because of that, it may be that dedicated outreach officers are needed. What is at issue is the principle of the matter; its execution and operation would need to be considered separately.

Mr Macintosh: I am very sympathetic to the idea but I am not sure how it would work. Fiona Hyslop referred to pooling support. I am not sure whether she meant creating a body that would fund outside bodies to allow them to lobby Parliament. I envisage a measure adopted by the education service but not school based. When the Procedures Committee met in Paisley, the education service gave a presentation to the local school. The partner libraries do similar work. The committee should recommend something along those lines to build on the work of the clerks. They offer a great deal of advice to those who wish to make submissions. It would be beneficial to provide a more accessible body, because to contact the clerks, people must navigate several obstacles. Therefore, Fiona's idea is excellent.

Donald Gorrie: The idea is important. A benefit of the creation of a suitable system would be that it would put the lobbying companies out of business. Their pitch is that they know how to get into the system, and the suggestions put by Fiona Hyslop and Ken Macintosh are for honest ways to do that. Perhaps "neutral" is a better word to use—"honest" is pejorative as it suggests that there is dishonesty. It may be that when a committee holds an inquiry, part of the spiel should be, "If you want to know how to write your piece, phone the clerk," or it may be, as Fiona Hyslop suggested, that there would be a central pool. However, the idea of helping groups that do not understand the system fully is important.

Paul Martin: I support Fiona Hyslop's suggestion fully. One possibility would be to make more use of civil servants to allow them to understand organisations more effectively. An issue for civil servants is that on many occasions they have virtually no contact with outside organisations.

Fiona suggested that the new organisation be independent. When an independent organisation is created, a difficulty is that it can become remote from the system. That can create a division because people can view the independent organisation as being there to give them a hard time, rather than being part of the system. Therefore, if it were possible to pool a team of civil servants from the various departments, whose job would be to support witnesses, that would be worth while.

The Justice 1 Committee often interrogates witnesses. That can be a difficult experience for the witnesses and they should be provided with briefing material beforehand, not least to outline committee procedure. Many of the organisations that provide evidence find the experience difficult and need the support that ministerial teams receive before they attend committee meetings. Ministerial teams receive extensive briefings. Therefore, why should community organisations that go to a great deal of trouble to attend parliamentary committees not receive the same support?

Fiona's suggestion is excellent. The committee should attach a great deal of importance to it and ensure that the necessary resources are pooled.

The Convener: By independent advice, I do not think that Fiona Hyslop meant that we would go to outside organisations. She said that she thought that participation services should provide the advice. She meant independent of the committees, rather than the Parliament.

Fiona Hyslop: I stress that people perhaps see this as the role of MSPs, but witnesses may end up giving evidence to the same MSPs, who will judge what they say. Therefore, there must be some distance. If the words "pooled" and "independent" were taken out, it would be clear that we are looking for parliamentary support.

The Convener: There is widespread support for the suggestion. Therefore, we will work up a form of words and slot them in as underlined text in a later draft of the report.

Fiona Hyslop: Could we move on to paragraphs 4 and 5 of my paper?

The Convener: I think that we have covered those paragraphs elsewhere.

Fiona Hyslop: We have to an extent, but I would like to stress the point that is made about

time for debates on petitions. Issues arising from petitions tend to get buried in committee time and I think that it is important that more parliamentary time should be allotted to dealing with them.

The Convener: I would ask you to locate the recommendation that deals with that matter—it is somewhere before paragraph 571—and satisfy yourself that it is sufficient. If it is not, you should come to the committee with a pitch for a different form of words later in the process. We have specifically recommended that the resources that are available to the Public Petitions Committee need to be strengthened to allow it to do the extra work that we have suggested that it do.

We have a section on regional meetings, but I do not think that it is as detailed or specific as what you suggest in paragraph 6 of your paper.

10:15

Fiona Hyslop: Previously, when we have discussed regional meetings, we have had in mind the regional committee meetings that are held by the National Assembly for Wales, in which there is a lot of cross-party intra-regional discussion. That is not what paragraph 6 is about. It suggests that it has to be recognised that we are a national Parliament, that the various Scottish regions have common interests and that the Parliament has a responsibility to understand the issues affecting the regions. On our visit to Ullapool, which Murray Tosh and I undertook as part of this investigation, we heard many constructive views on this issue. I heard many interesting things about the ways in which the Parliament impacts on an area that I do not represent. Knowing about such matters would help me form my views on issues, motions and pieces of legislation that I might vote on.

Much of this report is about internal parliamentary issues, but this issue is about outreach and ensuring that we can make the most of getting members out and about throughout the country. It would be useful if members had a responsibility to report back to Parliament on issues that affect the regions of Scotland. That would enable members from various regions to participate in regional debates in the chamber. At present, when a members' business debate deals with a matter that is of importance to a particular region, there is a high turnout of members from that region but a poor turnout of members from elsewhere. If we want to represent the interests of Scotland, we should not follow the approach of the National Assembly for Wales, which has fragmented regional meetings. Members of the Parliament must be made aware of the voices of people from the regions that they do not represent.

On the practicalities of the arrangement, if each member took part in one such meeting, all the

regions would be covered on a regular basis. That would ensure that the views that were expressed at the public meetings would find their way into Parliament. If the committees of the Parliament were asked, prior to the meetings, what issues they were currently seeking views on, the meetings could be even more relevant and useful. From our meetings in the Borders, Paisley and elsewhere, I know that people come to regional meetings with their own agendas, quite rightly, but it would be useful if the Parliament's agendas could be advanced as well.

Mr Macintosh: I am not against the idea of regional meetings and I sat on a cross-party group that met on a regional basis for a long time. Where there is a demand for regional meetings, they should take place. However, I am not sure whether Fiona Hyslop's structured recommendation reflects demand. There is a clear demand in certain regions and we should remove barriers to regional meetings in those areas and possibly provide support. However, I am not sure that there is a great deal of demand for the formal system that is described in the paper, with three members covering a region once a year. That seems to add a layer of bureaucracy and extra meetings that I doubt reflects the need that there might be for such forums.

Fiona Hyslop: The proposal is illustrative rather than prescriptive.

Mr Macintosh: I have some sympathy with the idea that there should be some form of parliamentary support for members who wish to discuss regional issues, but that should happen on an ad hoc basis. Already, a number of bodies behave like that. My own constituency is in the West of Scotland, but half of it is very focused on Glasgow, so I have a lot of Glasgow interests and a few West of Scotland interests. The West of Scotland region goes all the way down to Ayrshire. It is quite a big region. Ayrshire has a strong identity, and identifies less with Renfrewshire and Paisley, which have strong local identities. There are all sorts of difficulties, which I am not sure a formal guideline would reflect.

The Convener: We previously discussed and agreed to the resourcing by the SPCB of ad hoc meetings of that nature. We also agreed that regional meetings should be genuine regional meetings, and should not be restricted by the electoral regions, which essentially are artificial. I will go back and look at the text to be sure that it is as clear as it should be. I certainly remember discussing the issue with reference to Greater Glasgow NHS Board and issues that revolve around Glasgow and various bits of the West of Scotland, but we did not previously discuss—and therefore did not agree to—a formal rolling programme of such meetings.

The issue is whether, as Fiona Hyslop says, the proposal is illustrative rather than prescriptive, and whether we could agree to the form of words that she wants, which goes beyond the initial agreements. While you think about that, I invite Paul Martin to contribute.

Paul Martin: I support the principle that Fiona Hyslop has set out. One issue is that although the regions are set out in Parliament, we have not met formally on the basis of regions. Why set out the regions and elect members from them but not have some way of bringing together the various members to discuss issues that relate to the regions? It has always surprised me that we have not established a formal procedure for the MSPs within regions to meet various organisations, perhaps on a quarterly basis. For example, members for Glasgow could meet Strathclyde police, perhaps jointly with members from other regions, and discuss issues relating to the region.

In local government, for example in Strathclyde, the practice previously was to have area committees that brought together members of Parliament and local and regional councillors. That was an effective means of sharing information and working with various organisations. Organisations sometimes find it difficult to liaise with MSPs other than, as Ken Macintosh said, on an ad hoc basis. MSPs say, "We'd like to meet you next week to discuss various issues." We tend to act reactively, rather than strategically, with ad hoc meetings.

I am not sure that I agree entirely with Fiona's proposal, but if we established the principle that we should have a structured set of meetings, it would guarantee that some strategic discussions would take place. It has always surprised me that the Parliament has never held strategic discussions relating to the regions. Such discussions have been sadly missed.

The Convener: The difficulty has been that the electoral regions—perhaps other than Glasgow—are largely artificial. For example, Strathclyde police have to deal with the South of Scotland, Central Scotland, the West of Scotland and Glasgow, and possibly even the fringes of Mid Scotland and Fife, depending on where the Stirlingshire boundary runs. In contrast, if a meeting of Fife members or Ayrshire members were set up, there might be a more obvious natural grouping.

The key is to look at what we have said so far about resourcing such meetings and about the constituency that we create for such meetings. We have also mentioned elsewhere the fact that we will provide a code of guidance about something along the lines of performance standards, and we could make clear the basis on which we expect public sector bodies, health boards and the police to liaise with MSPs on a geographical basis.

However, I think that Fiona Hyslop is talking about something different. She is talking about our going out foraging for issues and looking for views, either in isolation or in relation to the work that Parliament is doing at the moment, to get feedback. That is a different approach from what we have talked about before, which was much more focused. For example, if there were a problem in greater Glasgow, we would go and talk to the health board about its plans.

Fiona Hyslop: There are different issues and different experiences from region to region. In the Lothians, we have regular meetings with the police force, the health board and the enterprise company, but it is a bit like herding cats. With such organisations, we must ensure that we can co-ordinate responses and get effective responses on a cross-party basis, and that is difficult. That may be done on a more formal, structured basis, but the key is that it is Parliament led.

We could take out everything after the seventh line of paragraph 6, and I am quite happy to take out my illustrative point. I just wanted to convey the idea that the work load for members would not be enormous. The second line of that paragraph mentions

"topics relevant to that area",

with the opportunity to "report back", and that would obviously depend on time.

That relates to the third point in my paper. We need the Parliament to be more proactive in providing support services to co-ordinate members in their outreach work, so that they get feedback from people and so that their meetings with organisations are a bit more focused. That does not preclude ad hoc issues, such as a big issue flaring up with Greater Glasgow NHS Board, for example. The political reality is that that will probably happen organically anyway. However, we should be realistic about ensuring that parliamentarians hear the voice of the people of Scotland. It is a matter of access and participation, and we need more proactive co-ordination.

If we take out the bottom half of paragraph 6, that is what we are left with. The issue then is to ensure that things do not become marginalised. We must get parliamentary time to get the issues discussed. Not very long ago, we had an interesting members' business debate on opencasting, because all of a sudden that was an issue affecting all of the Lothians. It was interesting that we all came together, but a members' business debate was the only vehicle through which we could do that. We could be more constructive about how we go about our business.

Donald Gorrie: I am keen on the concept of meetings with regional organisations. That was one of the numerous items that I was not allowed

to get into my party's manifesto for the previous election. An important contribution can be made by looking at things regionally.

I have a slight concern about Fiona Hyslop's concept of individual missionaries going out. Other MSPs may work differently from me, but I have tried to cover my list region, in so far as that is physically possible, and I pursue particular interests arising either from committee work or from my past interests in the voluntary sector and youth work. In other respects, I take the advice of members in my local area. If there is a dispute about a bypass for Aberdeen, about the technicalities of fishing or about Glasgow hospitals, I accept what local members tell me. That may be wrong, but it would not be helpful for me to go up to Ullapool and get embroiled in a technical fisheries discussion to which I could not really contribute.

On the other hand, there might be some merit in two or three people who are interested in the voluntary sector, for example, going round and talking to people on a subject that they actually know something about. As long as the wording on regional meetings is reasonably flexible, there could be different boundaries for different organisations, such as health boards or police boards, as the convener pointed out. It would be helpful to have the facility for individuals or small groups to go round taking people's views. I do not think that we want to support too specific a proposal.

10:30

The Convener: We have agreed that we will mention the need to bolster the regional meetings and, crucially, that we will call for those meetings to be resourced adequately. We should also allow for the possibility of trying the process out, developing it and letting it evolve to see over time whether a more focused and structured approach is necessary. The key point is that we secure agreement that, if people want a meeting, they can have it advertised and staffed and get the halls hired.

If we begin with the meetings that we believe might be useful in our regions, that would allow the subsequent growth of what Fiona Hyslop proposes, which is useful but not critical at this stage. I am happy to return to the issue to see whether we could add something to capture the spirit of the point. However, I do not want us to nail ourselves to something that would bounce back if we did not think that there was any mileage in it but people asked what had happened to the proposal.

Fiona Hyslop: Paragraph 7 reinforces points that Paul Martin made about the fact that we

should be considering technology, so I think that we should leave it.

The Convener: It is taken care of.

Fiona Hyslop: Do you want me to go on to accountability?

The Convener: Yes, because when we have gone through the power-sharing stuff and the remaining part of the accountability section, I envisage a final paper with a sweep-up of the remaining points. We have been over accountability a couple of times and, if we want to add new points, we will show them as underlined text in a later draft.

Fiona Hyslop: I am conscious of time. Do you want me to go through all the paragraphs so that we can knock out some of the ones that cover points that we have dealt with already?

The Convener: My view is that paragraphs 9, 12, 14 and 15 are dealt with. Paragraph 8 is entirely new. I suspect that we can deal with paragraph 10 quite quickly and I was going to suggest that we hold paragraph 11 over. The points about the parliamentary week and the parliamentary day are in the section on accountability that we have not yet covered. Susan Deacon is particularly interested in that area and I envisage that we will deal with it next week.

Fiona Hyslop: I am happy with that. I shall deal with paragraphs 8, 10 and 13.

I am conscious of the balance between the Executive and the Parliament. We might want to hear the Executive's view on a topical issue, but we can question the Executive, hold it to account and seek clarification and information on behalf of our constituents only if the minister agrees to give a statement. I would be interested to know how the system operates at Westminster in that regard.

Currently, we can ask for an emergency question on one issue and it is up to the Presiding Officer to decide whether to grant that request. Paragraph 8 would make the position the same for ministerial statements. I do not envisage the Executive being required to deliver statements very often, but there are times when there is cross-party demand for parliamentarians to be able to question the Executive on a key issue. It is always in the gift of the Executive whether a ministerial statement is given. I would like there to be a facility, similar to that which exists for emergency questions, for members to approach the Presiding Officer to ask that a ministerial statement be given on a particular subject on some occasions.

The Convener: I am not absolutely clear what the Westminster position is, but I am aware that the Speaker admitted recently an unusual form of

questioning of the Prime Minister—the Speaker was annoyed at something that had been announced outside Parliament and allowed questions to be asked inside Parliament. There is some power there but I do not think that it is heavily used.

I am a bit leery of the idea of empowering the Presiding Officer to say to the Executive that someone must come and give a statement on subject X. That might give the Presiding Officer a controversial role that could lead to his being more involved in political decisions than is entirely good for the Parliament. However, I understand the problem that you are alluding to—the Executive resisting debate or scrutiny on a specific issue.

When we discussed the issue back in the early days, we envisaged that, if the Executive was ducking out of something awkward, one of the purposes of Opposition time would be to tackle the subject—the Opposition could use that time to requisition a debate on the matter.

Fiona Hyslop: Unfortunately, the Opposition has to do that far too frequently.

The Convener: You said that you did not think that the procedure that you suggest would be used very often.

Fiona Hyslop: We do not get that much Opposition time, however.

The Convener: If there is a big, burning issue, chances are that both Opposition parties might be interested in ventilating it. It would not be long before the Opposition had the opportunity to debate something if it had the will to allocate its time.

Essentially we are talking about rationing time. We are asking the Executive to consider its programme and to take time to make a statement. If the Executive is not willing to do that, the Opposition's option is to take an hour and a half for a debate. That might put the Executive under greater pressure.

Fiona Hyslop: That happens at the moment, but I feel strongly that there should be Parliament time for such issues. I do not see that happening very often, but I see it happening with urgent and topical issues. We have had emergency questions only on very few occasions—three times, I think.

The Convener: Something like that.

Fiona Hyslop: Topical and urgent matters arise but, when we have emergency questions, we get two or three questions on the matter and that is all.

The Convener: The Presiding Officers decide to accept an emergency question by evaluating whether it has to be answered on that day. There was the threatened ferry strike when Parliament was about to go into recess and an emergency question was allowed, I think.

Fiona Hyslop: That is a good example of the Presiding Officer saying that, as we were about to go into recess, the issue was about timing. To be fair to the Executive, what I suggest would give it more opportunity to say something.

It would be interesting to hear Susan Deacon's view. We must remember that we are working with the whole Executive and, although an individual minister might want to make a statement, if the Executive as a whole is having to manage its time, there might be restrictions.

The Convener: The other angle is that if something of pressing significance arises on a Thursday, it is almost always possible to work in a question to the First Minister. If an issue arises on a Wednesday, the question is whether we need to deal with it on that day or whether it can wait until First Minister's questions on the Thursday. There might also be a question coming up in question time that could be used as a platform for the issue.

I do not know whether anything of vital importance has arisen when there has not been an opportunity to raise the matter within a day or two. I am not sure whether what you are suggesting is appropriate or whether it might be better to consider a way of fleshing out what constitutes an emergency question.

I envisage that there would be lots of demands on the Presiding Officer for statements. The Presiding Officer could then be in the position where he might have to say no to the Opposition and yes to the Executive. Although you are suggesting that the measure might be rarely used, the Presiding Officer might end up in a front-line battle in which he is doing more than holding the jackets; he would be making key decisions. I can see the situation escalating and contributing to loss of the Presiding Officer's authority if he is seen to be siding too much with one side or the other.

Mr Gil Paterson (Central Scotland) (SNP): I do not entirely agree. After all, the Presiding Officers have control of emergency questions. That has worked fairly reasonably so far. There is a mile of difference between, on the one hand, being able to raise a question and asking a couple of supplementaries and, on the other, having the opportunity to request a statement. A statement is completely different from an emergency question. I am not speaking as a party man, but I think that it would be better for the Parliament if we had the opportunity to insist on a statement. That would open up other avenues for MSPs, particularly back benchers. Front benchers rather than back benchers usually get the opportunity when it comes to emergency questions.

The Convener: Who would do the insisting?

Mr Paterson: As with an emergency question, a member would need to put the point to the Presiding Officer, who would decide whether it was relevant.

The Convener: With an emergency question, the Presiding Officer does not rule on whether the question is relevant. He makes a judgment on whether it is important enough and on whether it must be dealt with on that day.

Mr Paterson: Surely the same considerations would apply in relation to a statement.

The Convener: What is a statement, other than an opportunity to ask questions?

Mr Paterson: The difference is in the timetabling. With an emergency question, a member can ask the first question, which can be followed by a couple of supplementaries. A statement offers wider scope.

Fiona Hyslop: Emergency questions usually last for about four minutes. A statement takes about half an hour. That is the difference. A statement gives more time to debate an urgent issue.

Mr Paterson: The wider issue is broadening the ability of members of the Parliament to participate. The timetabling of emergency questions is tight for the members who participate. Although the scope that a statement offers is still narrow, it offers more scope than an emergency question does.

Donald Gorrie: I have a concern about insisting that something should be done on a particular day. The natural tendency of the Opposition parties is to press for information on the day. If the Opposition wants a statement on fisheries or on teachers' pay, for example, the Executive should have the facility to say, "We are still sorting it out; you will have a statement next week." Insisting that the Executive had to do something at the time might be counterproductive. The Executive might not be able to say anything worth while, which would make everyone fed up, or it might say things that it should not say, which could foul up the whole process.

The Presiding Officer should not have the power to insist that the Executive makes a statement on X that day. It would be reasonable for the Presiding Officer to have some kind of power to point out that there was a huge amount of interest in teachers' pay, for example, to ask when the Executive intended to make a statement and to indicate that that should be done reasonably soon. I presume that such matters are raised at the Parliamentary Bureau anyway. I accept most of the convener's argument that, if possible, the Presiding Officer should not be involved in the trench warfare.

Fiona Hyslop: I think that I am losing the argument.

The Convener: The fact that we have had a discussion of some of the issues gives you the opportunity to consider whether you want to press your proposal and to think about the form in which you want to press it. You might want to consider whether you wish to modify your proposal to make it more acceptable.

I am not averse to the idea that, if there is an issue of genuine significance that the Parliament is desperate to discuss, there should be some way of getting that issue on the agenda. That should be the role of the bureau. Opposition party time is important in that regard.

I am not convinced that, if an issue is big enough, it does not already get on the agenda. I am more concerned about having statements when there is no particular need for them—for example, having a statement to crow about this week's budget.

Fiona Hyslop: I am talking about something that is probably between a ministerial statement and an emergency question.

Mr Macintosh: Are there any examples? I cannot think of any examples of occasions when we have not had a ministerial statement on an important issue.

Fiona Hyslop: I can give you a list.

The Convener: You should circulate a briefing note and highlight your concerns, because we may be missing something.

10:45

Fiona Hyslop: The suggested change in title from question time to answer time in paragraph 10 was originally Gil Paterson's idea. I liked the concept, because question time should be about answering and accountability. Question time is not necessarily an opportunity for Opposition members to posture and put questions, nor is it simply a chance for the Executive to avoid accountability and answering. A change in title would be a nice gesture to emphasise the fact that we are looking for real accountability, which means proper answers. In order to get proper answers, there must be proper questions.

The Convener: The substantive point is more important than the label. You said that the point was Gil Paterson's.

Fiona Hyslop: I am quite happy to refer the issue to Gil Paterson's paper, if you want.

The Convener: Let us do that.

Fiona Hyslop: Paragraph 13 of my paper is probably one of the most controversial. It was quite clear that people's experience with the Parliament, and most certainly the Executive,

tended to be through their involvement with the civil service. Although that area was not to be covered in the CSG inquiry originally, we need to look into it. The paragraph should probably read:

“Devolution of ... the civil service to be examined by the Parliament as an Inquiry to develop devolution and its practical application in Scottish public life.”

Some of us feel strongly that there should be an independent civil service and an independent Scotland and obviously some people think that, even under devolution, there needs to be devolution in the civil service. There is obviously a spectrum of views about the political outcome. However, regardless of any of those positions, it is quite clear that one of the issues that we might usefully consider as a Parliament is the practical application of devolution, especially with regard to the civil service.

The committee may want to go the whole hog with paragraph 13. Even if we do not, it would be wrong to ignore the subject if we want to ensure that devolution is working properly, because the issue that I raise has such an impact on people's lives, even though we do not have full competence in that area.

I recall an exchange in the Parliament when the First Minister made it quite clear that, although ultimate responsibility for the civil service is with Tony Blair as Prime Minister, there are certain issues over which the First Minister has responsibility. Therefore, the Parliament should have an input into and accountability for the practical application of devolution in the civil service and Scottish public life.

The Convener: I am conscious that some witnesses raised that issue; we also received some material from our adviser on the subject. There was an interesting academic and professional debate, but the matter also has political dimensions. There are also some important service delivery and line accountability issues.

I do not know whether we have taken enough evidence to come to any definite conclusions. I do not mind the report saying that we have had suggestions and that the area needs to be considered. I do not think that we can go much further than suggesting that the issue be considered in a future parliamentary session, because we have not really got into the nuts and bolts of it, although we have heard some interesting points.

Fiona Hyslop: We could delete the first four words of paragraph 13, so that it reads:

“the civil service in Scotland to be examined by the Parliament as an inquiry to develop devolution and its practical application in Scottish public life.”

That is very general and leaves the option that the issue should be considered not necessarily by us, but by a future Parliament.

Mr Macintosh: I am not against the idea of devolution of the civil service. We have not considered the idea, although we have received opinions on it. However, I feel that it is outwith the scope of our inquiry, or at least is not the focus of it. I echo the convener's suggestion that our report should reflect the fact that we have heard evidence of a continuing concern, but I do not particularly wish to recommend that the Parliament establish an inquiry into the matter—that is up to whoever wants to instigate an inquiry and I can think of many other matters into which the Parliament should inquire before that.

Donald Gorrie: The report should mention—as I think it does elsewhere in connection with the civil service—that we want to improve how the system works. The phrase “develop devolution” might ring alarm bells in some quarters. Parliament should study and discuss with the civil service how to improve our work with it.

The Convener: The report contains relevant sections and includes some of the ideas that Donald Gorrie developed about departmental liaison officers. Perhaps that would be the appropriate place to lay a marker about the matter.

We have been told that such a proposal is being considered in Wales and that the civil service in Northern Ireland is a separate body. The matter is not a neat part of the devolution settlement. Much useful work might need to be done. However, I agree with Ken Macintosh that that is not really part of our current inquiry's remit, unless it could be argued that the civil service was less accountable or that the existing structure made Parliament or the Executive less accountable or interfered with power sharing. Those arguments were not advanced. Academic literature suggested interesting areas for research, without necessarily suggesting that the issue was at the cutting edge of the Parliament's development. However, in the future, some aspects might be identified as important. It would be pertinent to lay down a marker.

Fiona Hyslop: Are we looking for a phrase to lay down as a marker?

The Convener: We will consider some text on which we might all be able to agree for the accountability stuff that we will consider next week.

Fiona Hyslop: The power-sharing proposal in paragraph 16 of my paper is intended to create the identity of a programme for Parliament that is distinct from the Executive's programme for government. For the Parliament's first session, it would have been difficult to predict what would

happen and to anticipate what programme we would want, but a programme for Parliament in future would ensure a distinctive identity for the Parliament and communicate what the Parliament does.

It is clear from witnesses' concerns that people do not know about much of the good work that the Parliament does. We could flag up in advance what that might be. The Conveners Group might be involved in that. Obviously, the new committee set-up after the election will mean new programmes but, once the committees are established, a more long-term view will be available. It would be helpful to piece together a programme for Parliament and to identify the big issues that the Parliament should consider.

Although the committees are effective and good and have been one of the best examples of the new politics, one criticism that we have heard is that they have tended to operate in silos. Not much cross-committee working has taken place. We could have big themes, such as Scotland's infrastructure—that could touch on the work of several committees, which could examine different aspects—or the drugs issue, which would be a good example of such working. The Parliament might want to examine one or two big things in plenary time and in the committees. The Conveners Group would be an effective forum for facilitating that over the four years.

Yearly, it would help to have an outline idea of work. I know that that might be difficult for the Executive. Any new Executive will have ideas about what it wants to propose in its programme, but it would help to have longer-term planning and to have some sketched views of what the Parliament should consider year by year and of some of the big ideas that we might want to consider over the four years. That would mean that the Parliament had achieved something itself and had not been only a facilitator of the Executive's programme.

The Convener: You have interwoven a number of strands there. As far as the Parliament's functioning is concerned, we have to take into account the Scottish Parliamentary Corporate Body review that is under way, linking into annual reports. Indeed, one could see a strategy for the Parliament as an entity evolving from such a review.

As for the management of parliamentary time, we have agreed to recommend longer-term programmes for bills and so on. We eventually discussed developing a medium-term and a long-term view. However, we do not envisage going beyond a maximum period running from summer recess to summer recess.

A third strand is your suggestion that, apart from being a body and a plenary and committee system

that delivers outputs, the Parliament should also have a policy. I am less clear about how that would work. After all, the Executive drives the agenda with its bills and the committees drive the agenda with their priorities, so I am not sure how one would get at a sort of parliamentary policy imperative. Would such a programme point the committees towards considering particular issues or would it simply accept that committees should deal with their present priorities? If we push the Parliament to come up with policy priorities, will it sharply differ from the Executive's view that the main priorities are health, education, jobs and crime? What will be the mechanics for working out a parliamentary programme?

Fiona Hyslop: The Conveners Group will be very important in that respect. The issues that the Parliament chooses to prioritise might not necessarily be the same as the big political priority issues that the Executive raises. Indeed, the Parliament might choose to air unattractive issues or issues such as older people, young people, drugs and so on. The point is that we should try to take a more strategic, long-term and co-ordinated approach. Much of the Parliament's plenary and committee work is reactive and we should find out whether we can be a bit more proactive and strategic in our thinking.

You are right to point out that, as the Executive parties form the majority in the Parliament, the Parliament itself will reflect the Executive's interests. However, the Parliament might say, "Okay, we want to concentrate on other big issues or themes over the next four years." It could make an impact on disability issues, or some other issue, and might expect the committees to decide on a particular theme. Indeed, the Parliament could decide on a theme for a four-year session that it would pursue regardless of the Executive's hue. By doing so, it would make a contribution to the life of Scotland.

The Convener: So you are suggesting that the Conveners Group could act as a mechanism for establishing whether there is an appetite for examining certain themes.

Fiona Hyslop: Yes. That would be a practical application. A back-benchers group—if one is set up—might also have an impact.

Paul Martin: I mean no disrespect to the Conveners Group, but I have difficulty with the suggestion that the power in this respect should lie with it. It is unfair to assume that the Parliament is the Conveners Group; we have to be clear that the Parliament is the 129 MSPs, who would have input into the matter. That is my difficulty with Fiona Hyslop's suggestion, no matter whether we are talking about the Conveners Group, the proposed back-benchers group or whatever. Indeed, the convener quite clearly highlighted

difficulties in deciding who would implement the principles behind Fiona Hyslop's proposal. I also have difficulties with proposals about the yearly programme. I believe that a yearly programme is already set out. Is the suggestion for a four-yearly programme?

Fiona Hyslop: There is no yearly programme. Instead, the Executive provides a list of bills that need to be timetabled.

11:00

Paul Martin: I would prefer it if the system had some flexibility. The fact is that the Parliament sometimes has to be reactive in order to deal with daily issues in Scotland. Indeed, Fiona Hyslop touched on that point earlier when she talked about emergency questions. After all, we do not have a crystal ball to tell us that in a year's time the Parliament will face the same economic challenges that it unexpectedly faced this year.

I think that there is a requirement for us to be realistic and say that there must be an element of flexibility. Nevertheless, the Executive has a responsibility to be as strategic as it can be and to provide as much information relating to its programme as it can. The difficulty is in finding a way of delivering the kind of consensus that we are talking about. If a particular programme does not meet with the entire Parliament's requirements, that will be shown through a vote in the chamber. To displace the democratic process from the chamber to the Conveners Group or a back-benchers committee would cause difficulties for the Parliament and I would find it difficult to support that suggestion.

I accept the principle that there is a need for us to consider strategically issues that the whole Parliament comes across, such as drugs. However, we interrogate the Executive on many occasions to ensure that ministers are working strategically, which is the responsibility of the Executive parties. Moreover, the committees regularly set out their programmes for the year and make quite an effective job of reflecting on evidence that they have received and reacting to it as strategically as possible.

Fiona Hyslop: There are two issues. The first is the idea that we should have a short to medium-term vision of what subjects we should examine. I raised that issue at a previous meeting, and that will be reflected somewhere in the report. There is agreement that we need to be flexible; we need more advance notice than we have now of what is likely to come up and we need the flexibility for that to change. However, we can perhaps park that issue on one side, because it is probably dealt with elsewhere.

The second issue is the idea that there should be a programme for Parliament. I think that there

is one already, to the extent that the committees lay out what they want to do. The Parliament also has an external relations policy, so the challenge is to bring all that together. I suggest that we lay on top of that the idea that the Parliament should take up some of the big issues that the Executive is not considering, but which are worthy of examination—especially when there is identifiable cross-party consensus on them. I agree with Paul Martin that decisions on such matters should not be the preserve of the back-benchers group—if we decide to have one—the Conveners Group, the bureau or whoever; the decision must be made in the chamber.

Perhaps the Conveners Group could come up with options and suggestions, or members could feed some into the Presiding Officer, after which the Parliament could be presented with options and asked to decide which of the suggestions were most pressing for a given period. That is how I envisage such a system could work—I am not a million miles away from what has been suggested. My suggestion might be rejected because the committees or others might decide that they want to pursue their interests in cross-party groups or committees. However, my suggestion would give us the option to express consensus in the Parliament on some of the big issues.

Donald Gorrie: We have discussed several times the fundamental issue that the Parliament as an entity has no real soul of its own. The Executive has an organisation and it goes away and does its stuff; committees have an organisation and—as has been said—they set out good work programmes and so on. However, the Parliament is entirely reactive, like an animal that responds only to stimuli and has no thought processes of its own. How can the Parliament achieve some sort of entity? I do not know, but I am keen to establish the back-benchers group as a step in that direction.

One of the ways in which we fall down is through committees doing their own thing. For instance, many people are concerned that there is a problem with disaffected young people in big housing estates. That problem affects education, justice, social work, social justice and transport—the odd bus has to be provided. Many people are involved in the issue but we do not currently consider it very well. The Executive tries to consider it, but the Parliament does not examine such matters as coherent subjects. However, there might be a way in which we could achieve that. Perhaps we could have the occasional meeting of Parliament at which we concentrate on and discuss such issues. We should give either the Conveners Group or—I hope—the proposed back-benchers group, more powers to bring forward proposals that the Parliament would support. Members might have different solutions to

the problem of youth disaffection, but they might all agree that we should attack the subject. We could advance in that way. The Parliament, as well as the Executive and individual committees, should be a source of initiative, although I am not sure how to achieve that.

Mr Macintosh: Fiona Hyslop has elaborated on several ideas with which I have sympathy, such as the idea that there should be a more structured and strategic look at what the Parliament is achieving.

We should also consider the idea—which we will probably come on to under Gil Paterson's paper—that there should be a stronger and more forceful identity for the Parliament. In Gil Paterson's paper that idea is expressed in terms of the names of the Executive and the Parliament, but I think that there is an issue about the Parliament's expressing itself more forcefully as a personality, as it were.

The trouble with paragraph 16 in Fiona Hyslop's notes on the report is that it confuses the Parliament with the Executive. There is only one Executive—it is not the job of the Parliament to be the Executive. The suggested title, "Programme for Parliament", conflicts with the programme for Government. I know that Fiona is not necessarily suggesting that that should happen, but I feel that it would be confusing. The programme for Government is approved by Parliament and is, in effect, the programme for Parliament, because it is approved by Parliament. The Executive is the Parliament's Executive; we select the Executive through Parliament, but paragraph 16 seems to contain the idea that the Parliament could pursue a different agenda from the Government. If Parliament had a different agenda, that might conflict with the programme for Government whether or not one wished it to. Otherwise, it would be part of the programme for Government.

It is not the Parliament's job to be a shadow or alternative Executive. I have some difficulty with paragraph 16, but we should work on many of the ideas that have been suggested. Most notably, we should consider something that beefs up the identity and role of Parliament, although that role should not be as an Executive.

The Convener: Fiona Hyslop has heard the discussion. What do you think of the suggestion now?

Fiona Hyslop: I am not sure what the suggestion is.

The Convener: The suggestion was yours.

Fiona Hyslop: The consensus is that we want a better identity for the Parliament—perhaps the soul that Donald Gorrie mentioned—and that there is a need to be more proactive. I also recognise that we do not want to engineer artificial

confrontation with the Executive. The Parliament's role would need to be on issues that are complementary but distinct. I cannot see an automatic route to achieving that, so I will reflect on the matter.

Paragraph 17 in my notes on the report is a practical suggestion:

"Parliament should have its own allocation of plenary time distinct from Executive, Committee, non-Executive Party and Members time".

I do not think that a huge amount of time would be required, but there are occasions when it would be helpful for Parliament to have its own allocation of plenary time. From a practical point of view, there have been instances when we have wanted to have a Parliamentary view on something—the death of a member of the royal family being an obvious example—and time has had to be allocated. Parliamentary time is not currently allocated for such debates, but we might want to use parliamentary time in such a way if there is a visiting head of state, for example. It would be helpful to have the option of some such parliamentary time being built in, although we would have to forecast how much such time would be needed during a year. A system such as that would need to be flexible, but some banked parliamentary time would help to release some of the pressure on committees. Perhaps there could be parliamentary debates on petitions and so on.

Mr Macintosh: For information, what happened when we were recalled for the Queen Mother's death?

Fiona Hyslop: If we are recalled, it must be recess time, I suppose.

Mr Macintosh: Whose time did we use?

The Convener: We used Parliament's time. It is all Parliament's time, really. However, the Executive, because it is accepted as the Executive and is entrusted with progressing its programme, makes proposals for the use of that time. The time that is specified as non-Executive time is allocated to committees, non-Executive parties and members and is allocated on the basis that those debates are integral to that minimum time. However, there is no reason why the Parliamentary Bureau should not give those areas more time. The assumption is that the rest of the time is available for the Executive to introduce its bills, lay out its policies and so on. The allocation of time on a week-by-week basis is agreed by the Parliament on a motion from the bureau.

Fiona Hyslop: Which is dominated by ministers.

The Convener: No matter how the bureau is constituted, if the Executive majority is to be reflected in it, the bureau will always be inclined to support the Executive's bids for time. I do not think

that any serious problem arose in the examples that members gave. If an important public figure had died during the parliamentary week and we had felt it necessary to suspend business to pay tributes and so on, I think that that would have happened. Similarly, when we have had visits from heads of state we have made appropriate arrangements, which have usually been to have a meeting outwith normal parliamentary time. However, such meetings are diary driven. If we decided that we wanted an important figure to address the Parliament, but that person could do so only, for example, at 3 o'clock, would not the bureau be entitled to say whether it would make the time available?

Fiona Hyslop: If the Parliament votes for the Executive's programme, it should not restrict time and prevent the Executive from getting its programme through; it should provide enough time to facilitate the Executive's programme. I am not arguing against that. All I am saying is that the Parliament itself should have an allocation of time. Visits from heads of state are a good example in relation to that suggestion. My understanding is that heads of state have spoken to Parliament at lunchtimes only because the view was that until the Queen had addressed Parliament during plenary time, no one else would. However, because the Queen addressed Parliament in Aberdeen during plenary time, occasions might now arise on which Parliament would use plenary time on a Wednesday afternoon or a Thursday for similar addresses. There must be provision for that.

The convener is right to say that all time is Parliamentary time, but the issue is how to get the balance right and have more flexibility than we have. We either have a specific recommendation that there needs to be more plenary time for non-Executive business that is not allocated to the time for committees, non-Executive parties and members, or we say that the bureau needs to allocate time a bit more effectively. That would be affected by how ministerially driven—as opposed to Executive-party driven—the bureau is.

Donald Gorrie: The concept of specific Parliament time is excellent, but that brings us back to the business of who speaks for the Parliament. If that can be cracked, I think that specific Parliament time could be achieved. In my brief experience of Westminster, one of its better aspects is that once a week the Leader of the House sets out its business. There is then a free-for-all for half an hour or an hour when members can—if they catch the Speaker's eye—get up and say, for example, that the railways in the south of England must be debated and ask when that will be allowed. They can push specific ideas. That might be one way forward for us. For example, for half an hour once a month members could

suggest matters for debate to the Minister for Parliamentary Business, Patricia Ferguson. That could be a way forward. The concept of Parliament time is good, but at the moment I do not see who would decide how to use such time.

The Convener: I am sure that Patricia Ferguson would be delighted by Donald Gorrie's suggestion. The question sessions with the Leader of the House tend to be like Prime Minister's question time. The Leader of the House has to be briefed every week on everything that is happening and it is all the same sort of knock-about stuff as at question time. I am not saying that good or useful exchanges do not take place, but I wonder whether that would be the most effective use of time in a Parliament that meets in plenary for a day and a half a week. I am not convinced that it would be.

11:15

I am also not convinced that Fiona Hyslop has identified a real difficulty. If a subject is important, time will be found for it. However, I am open to persuasion.

Fiona Hyslop: I do not detect enthusiasm for my suggestion, so I shall move on.

Paragraph 18 of my notes refers to the naming issue, which I shall leave until we consider Gil Paterson's paper.

The Convener: We have covered that already.

Fiona Hyslop: Paragraph 19 addresses the thorny issue of one member, one vote in relation to the membership of the bureau.

The Convener: That matter will come up later, and is still to be resolved.

Fiona Hyslop: Paragraph 20 is not specific, but refers to the general view of witnesses that we have enacted too much legislation and that there has, as a result, been less time for policy analysis in committees. The paragraph suggests that not everything need be done by passing more legislation and that much can be done through policy. The paragraph describes a general view of, or philosophical approach to, what matters, rather than offers a specific recommendation.

The Convener: In between "less" and "legislation", I have scribbled down "better".

Fiona Hyslop: Well, I suppose you should speak to the Executive about its legislative programme.

The Convener: I do not disagree with the thrust of paragraph 19.

Paul Martin: The paragraph does not reflect the views that we hear at committee meetings. People say that they are happy with the legislation that is

passed. On dog fouling, for example, people asked that the law be changed and police officers said that current legislation is insufficient to deal with kerb crawling. We have dealt with a wide range of issues.

We must strike a balance. I agree with Fiona Hyslop about policy analysis, but we must be clear that our job is to legislate. We will be accused of being a talking shop—I know that that is not what Fiona Hyslop is suggesting—if we spend more time on analysis than on delivery of legislation.

To be frank, I do not think that paragraph 20 says anything. It does not tell us anything that we do not already know. The public want to see a drive to pass more legislation and they want us to analyse that legislation, but that already happens during stages 1, 2 and 3. Legislation is scrutinised effectively in all committees, so I do not see any need for the paragraph, other than to remind us of our obligations.

The Convener: I did not think that the matter was something that we had dealt with, but I agree basically that, in making recommendations on the timing of legislative stages, we recognise implicitly pressures on the system. We have made recommendations about post-enactment scrutiny; we would like to see such scrutiny done more fully. The recommendations say implicitly that we need to spend more time on certain aspects of the legislative process. The logical corollary of that is that the process of legislation must be slower, which means more thinking and either fewer bills or more plenary time, although we have not recommended that.

Fiona Hyslop: Since commenting on the issue in my original June notes, the report has changed to reflect the need for more policy consideration, and I am happy with that.

The Convener: We have dealt with paragraph 21, and talked about the non-Executive bills unit. We have not discussed paragraph 22 in the terms that it uses, but we have reflected the fact that conveners could be more robust in saying that committees need not meet twice a week for the next eight weeks, or whatever is expected.

Fiona Hyslop: I am happy with that.

The Convener: That brings us to Ken Macintosh's paper, much of which has been overtaken because it is based on the original report. I ask Ken to work through his paper and highlight anything that he thinks is still important.

Mr Macintosh: The paper is not an issues paper; I submitted it for a meeting that I could not attend.

The Convener: Yes, but it raises many thoughts about the overall process, so it is worth retaining.

Mr Macintosh: Indeed.

My paper begins with the general point that we must come back to the wording and emphasis on certain points in the introduction of our report, with which I was not happy. However, we cannot reconsider that until we have agreed on the meat of the report.

Next, I made a small point about wording. The speed of parliamentary business is not the same as the speed of legislation. There will always be conflicting pressures because of the need to proceed timeously and the need to give legislation enough time. Fiona Hyslop made that point.

The Convener: Some of your points will be difficult to track because we have amended the text of the introductory section significantly since you wrote the paper.

Mr Macintosh: I hope that when we go back over it I will be totally happy.

The Convener: The content of the longest paragraph in your paper—the one on paragraphs 29 to 37 of the report—has been overtaken.

Mr Macintosh: We have talked about the issues—twice, I think—but I am not sure that we have agreed on the text.

The Convener: We have not agreed it finally, but we added a lot of additional text. For example, we added text on MSPs' role. When we reconsider that text, I think that the committee will be broadly happy with it.

Mr Macintosh: The convener did most of the work on those paragraphs and suggested amendments to them, with which I was happy. My question is whether, in the context of the whole report, we have struck the difficult balance between participative democracy and the practice of whipped voting. Much of the evidence that we received from outside bodies was on that issue. I felt that the original report was one sided and slightly unreal, so it will be interesting to find out whether the overall impression from reading the report reflects the reality of the way in which members behave in Parliament and outside it.

Fiona Hyslop mentioned the education programme. The report should reflect the fact that schools in the more geographically distant constituencies are at a disadvantage because they do not have the same access to Parliament as the less distant schools. That issue should receive proper resources.

The Convener: We discussed that point at an earlier meeting; text that reflects that will be included somewhere in the report.

Mr Macintosh: We also discussed the differing roles of constituency and list MSPs. I am not sure how we can resolve that issue, although we cannot skip over it.

I am also not sure what to do about the issue of the media. At one point, I thought that the Parliament should have a more formal relationship with the media but the report suggested originally that the relationship should be less formal and that the media should be allowed access to absolutely everything that we do. If anything, the relationship should be more formal.

Perhaps we will discuss the issue more generally later, but I believe that the Parliament does not defend itself enough through the media and that if it did so, it would have to establish a properly resourced strategy for its relationship with the media. That happens to a certain extent, but the issue must be addressed further—it relates to Parliament's, as opposed to the Executive's or MSPs', identity. However, there is no point in labouring the difficulties that we have with the media because they are part and parcel of political life.

We have already discussed co-opting people on to committees. I support the principle, but its introduction in practice is not up to us, although we should try to improve on current practice. We have also talked about MSPs' role in providing access, which was missing from the original report.

The Convener: We have built quite a lot on that into the report and I hope that we have resolved the problem.

Mr Macintosh: My comments were addressed specifically to one meeting.

I have mentioned this matter at certain meetings but I am not sure whether I have said it formally: I would like to see the abolition of inspired parliamentary questions.

The Convener: We have covered that.

Mr Macintosh: We should encourage better working with the civil service, a subject on which Donald Gorrie has made several suggestions. It is a difficult thing to do, but informal meetings have worked well, although there are difficulties in going down that route. Further work needs to be done, and the relationship with the civil service must be addressed in our report.

The Convener: Text on the civil service for the report will be submitted for approval and will go in the remaining bit of the accountability section.

Mr Macintosh: I have two other small points to make, which I hope will be resolved. Should Opposition spokespeople be on committees whose remit covers subjects on which they speak? That continues to be a problem. There was a difficulty in the chamber recently in relation to the role of a committee convener and the behaviour of members of the committee. Such difficulties never arise when a committee agrees a consensual position and the problem is to do with the

dynamics among individual members, but a potential solution would be to rule that Opposition spokespeople may be members only of committees on whose remit they are not the spokesperson.

We have already discussed the possibility of longer speeches for back benchers.

The Convener: We will come back to that when we consider parliamentary issues. There is revised text that takes into account our previous discussions about the list member versus constituency member question, the conflict-of-interest question, the matter of Opposition spokespersons and ministerial aides. However, I do not remember Mr Macintosh being as robust in his views previously as he is now.

Mr Macintosh: Perhaps I was in a better mood then.

The Convener: There was a discussion at our previous meeting about which side of the bed you had got out of; maybe you got out on the wrong side this morning.

Donald Gorrie: In the hope of getting a favourable mention, we could pay tribute to the efforts of the parliamentary press corps in covering committee meetings.

The Convener: They are the only press people of whom we approve.

Donald Gorrie: That is right. It might surprise people, in light of my totally unmerited reputation, that I have asked inspired questions two or three times. Is there an alternative method of allowing a minister, who desperately wants to say something, to say it?

The Convener: We were going to suggest that there should be an additional page in the business bulletin.

Fiona Hyslop: The inclusion of the extra page should be highlighted on the front of the bulletin.

The Convener: Yes.

Mr Macintosh: We had at one point the idea that there should be a parliamentary gazette.

Mr Paterson: We did not recommend that there should be such a gazette, but we definitely discussed it.

The Convener: Did we?

Paul Martin: Do standing orders come into this?

The Convener: Yes. If we were to create an extra section in the business bulletin, we would need to introduce a recommendation to revise standing orders.

Paul Martin: I am not comfortable with inspired questions. However, I have been asked to ask

inspired questions and I see them as a way of ensuring that information is provided for the public record.

Mr Paterson: Did you get any answers?

Paul Martin: I have a lot of sympathy with the problems relating to answers, but we live in the real world and we want information. There will be times when the Executive wants to issue information, and one way in which it can do that is through inspired questions. It is a cosmetic and false process, but if a member is approached to ask an inspired question, why not ask it? Inspired questions should be criticised for being cosmetic, and they are an unfortunate way of providing information, but members should not be criticised for asking them.

The Convener: We were certainly not criticising members. The conclusion of our previous discussion on the subject—and of the text that we will consider at some stage—was that inspired questions are usually a means of issuing publications or reports but we would rather that a notice was just put in the business bulletin. There is no justification for supposing that less information or fewer reports would be issued as a result. Putting a notice in the bulletin would mean that we need not create this elaborate fiction that the member had thought to ask the question. I agree that that is entirely artificial.

11:30

Mr Paterson: Frankly, I think that inspired questions are a cheap and cheerful way of issuing information. As long as other members and the public know that the question is inspired, everyone will be happy. Inspired questions just need to be marked as such.

Paul Martin: We should clarify that such questions are the only way in which the information can be provided at the moment.

The Convener: Ministers can issue press releases and do all sorts of things, but there are matters that they want on the record. Inspired questions allow the minister to say, for example, "I am issuing the report of this consultation, which is being published today."

Paul Martin: I raised the matter because inspired questions have been subject to criticism by members.

The Convener: I am aware of that, but they have not been so criticised in this committee.

Paul Martin: I appreciate that. I simply wanted to put on record the fact that, although I am not supportive of the mechanism, inspired questions are the only way in which the information can be provided. That is the only reason that I have agreed to ask such questions.

Mr Paterson: Strangely enough, I support the idea of members being asked by a minister to lodge a question so that the minister can give an answer. In any case, the questions are normally fairly non-controversial. It is better to have inspired questions than to have all the palaver of a ministerial statement, given that we are stuck for time at the best of times. Inspired questions are a good way of providing information. It is reprehensible that members are castigated for doing a service for the whole Parliament. The service is not only for the ministers.

Fiona Hyslop: The Executive should ask Opposition members to lodge the questions.

Mr Paterson: That would be great. A minister could attach an inspired question to an Opposition member. The bit that is missing is that we need to take away any duplicity—although my view is that such questions provide a service and are not duplicitous. It would be good to know who is asking the question and why it is being asked. If inspired questions were simply marked as such, that would solve the problem.

The Convener: Inspired questions have been marked for some time now.

Paul Martin: I was just about to say that.

The Convener: We have moved beyond that. However, even in the light of the amended practice, which is much better, we still need to ask whether there is any reason for having such questions and answers when we could have a simple statement. If such statements were published in the business bulletin, people could access them and track them to see what announcements had been made without having to pick their way through the written answers report.

Paul Martin: I apologise for going on about this, but there is another side to the issue. Could the Executive use the mechanism of providing information in the business bulletin that could not be interrogated further? Perhaps there is a technical issue. If the information is provided in the form of a response to a question, a member has asked that question. However, if the information is simply provided in the bulletin, what kind of property of the Parliament does that information become? I am sorry to go on about this, but the matter is important.

The Convener: The announcement in the bulletin would be a statement by a minister. If anyone wanted to interrogate the minister further, they could ask a further question, just as they ask further questions after written answers. Members currently ask such questions in the form, "Further to the answer given by minister X on date Y to member Z." If the information were to appear as a statement in the bulletin, members could interrogate the matter further by using the form,

"To ask the Executive, further to the statement that it made on date A and on subject B." There would be no difference in the way in which members would follow things through. I have asked questions on ministerial press releases by quoting the number of the press release. Members can ask for clarification on anything that comes from the Executive.

Paul Martin: I appreciate that. I simply wanted to clarify what the difference would be.

The Convener: We will move on to consider Gil Paterson's paper. Some of his points have been overtaken by later discussions, but some are still up for discussion. We will follow Gil Paterson as he leads us through the paper.

Mr Paterson: The paper was submitted because I knew that I would miss at least one meeting, as I was abroad on important matters. The paper is not in any order—it is just bullet points on items that I thought were important—and was submitted to put my view on the record.

The Convener: It might help for me to say that your points about the Parliamentary Bureau have been discussed. There is revised text on them in the paper that I have submitted. We will consider all those issues when we consider that revised text.

Mr Paterson: In that case, I will move to the points about debates. There is obviously a problem with debates being guillotined. We have discussed the fact that we do not have as much plenary time as we would like. We could get round those matters and broaden the scope of debates.

I have mentioned in the past that those who are always squeezed are the back benchers. Particularly in the grand debates, the speakers from all the parties are the usual suspects and back benchers are conspicuous by their absence. That could be overcome by holding debates over two days, which would allow everyone who wanted to speak to do so. We could also increase the speaking time, say to six or seven minutes. If a debate were held over two days, speaking time could even be extended to 10 minutes. That would make our debates more real.

I am a great supporter of the idea that we should not eat into the time that we spend in our constituencies. The only other way to increase the time for debates would be to increase the number of days that the Parliament meets from one and a half days a week to two or two and a half days. That would not be a good idea, because the next consequence would be that we would meet in the evenings and we would just be on the merry-go-round that Westminster is on.

The paper identifies the problem and comes up with a solution. Most of the paper is evidence

based, but we did not hear a lot of evidence on this point and the evidence we heard was from members of the Scottish Parliament rather than from outside bodies.

The Convener: There is obviously a lot of internal opinion on extra speaking time. Your solution is to reduce the number of unimportant debates and I will test the committee's impressions of that idea. We were clear in the early stages that some of the debates lacked a bit of focus. Is that still true? Do we now have many debates with which we would want to dispense? Many debates are tied up with bills, but even apart from those, debates tend to focus on ministerial strategy or policy developments.

I am not conscious that we are having the 97th debate on something utterly unimportant, although there were criticisms in the early stages, when we did not have bills, committee reports and fully fleshed-out policy proposals, that we struggled to fill our time. That was in the Parliament's first year or so. I am not convinced that there is scope to cut out much now. I am certainly not conscious of a lot of time being wasted.

Mr Macintosh: I agree that that aspect has improved dramatically, but I also agree with Gil Paterson that back benchers should have more time to speak. There is still a problem—I am not sure how much of a problem it is, but there is still an issue—with members not being able to speak in certain debates in which they would really like to speak. However, I am sure that many of us have been asked to speak in debates in which we are not desperate to speak. If we compared the number of times that members are asked to speak when they are not desperate to do so with the number of times that they are not asked to speak when they are keen to do so, we would find that the balance was wrong.

At the beginning of the Parliament, I was extremely frustrated about not being able to speak in certain debates. The crucial issue is that, when a debate comes around that members are keen to speak in, the time is extremely limited and the number of speakers is restricted. If we increase the speaking time, we will restrict the numbers still further.

I do not think that this problem is a matter for the Executive, I am afraid. I do not agree with the view that fuller debates should be held on a regular basis during Executive time. I think that the Executive debates tend to have more of an edge than the Opposition debates, for some of which the chamber has been empty. Sometimes, it seems that people are just going through the motions. Similarly, although they have dealt with important matters, some committee debates—including Procedures Committee debates—are not considered to be must-attend occasions.

It is a question of balance and I think that it would be unfair to point the finger of blame at the Executive. We need a mechanism by which we can more accurately reflect the interests of members. I do not mean that that should be a system whereby members simply respond to the news of the day, but it should allow debates to be held on topics on which members want to speak. I am not suggesting that we have some sort of back-bench committee, but I think that we could improve the mechanisms that we use. There is no doubt that the situation has improved—we no longer have three-hour debates on the millennium bug, for example—but there is room for further improvement. I largely endorse the basis of Gil Paterson's suggestion that more time should be provided for back benchers.

Fiona Hyslop: People have different perceptions of what constitutes a filler debate, but I agree that the situation is better than it was.

Speaking as a business manager for my party, I can say that the problem relates to the process that must be followed. The Parliamentary Bureau gives an immediate response on how much time it thinks a particular debate merits. In the bureau, I have argued, based on political instincts, that a certain debate or other needs less time and that another debate needs more.

Business managers are given a timetable at about 12.30 on a Tuesday and go into the Parliamentary Bureau at two o'clock to make a decision about that timetable, having had little time to consult their members. A process solution would be for business managers to have, as part of their advance planning, a better idea of the subjects that the Executive was considering for debate in the coming three weeks. If we knew what was to be debated, we could find out how many of our members wanted to speak on the subject and go to the Parliamentary Bureau with an idea of how long or short the debate should be.

There should not be much conflict on this issue. I imagine that there is a status issue for ministers, who will want their debate to have a large amount of time, but I am sure that we can reach a happy compromise that will ensure that issues are properly aired and that members get an opportunity to speak.

Paul Martin: I do not think that members will ever be happy with the amount of time that they are allocated. There will always be an issue around whether there is enough time for debates. If members are given 20 minutes in which to speak, we will hear complaints that speeches are going on for far too long and that we have returned to a Westminster style of debate. If members are given seven minutes, others will complain that they have not had an opportunity to take part in the debate.

On Opposition time, I recall a meeting in which there were three debates.

The Convener: You are referring to debates that Tommy Sheridan proposed.

11:45

Paul Martin: Having three debates was questioned at the time. If there are three half-hour debates, the quality of speeches will be lost because not enough time will be allocated to them. I am not trying to make a political point—I am simply making a practical point. It can be guaranteed that there will be no effective input into a half-hour debate. Sometimes, the same is true in respect of an hour-and-a-half debate.

Members will always complain about the time that is available. I will be controversial by saying that four minutes is not ideal, but it is the best option in the current circumstances.

It would be helpful to consider the time that is allocated to front-bench spokespersons and making more time available to back benchers. The time that is allocated at the end of the afternoon, in what is considered to be the graveyard slot before decision time, could be significantly reduced. Perhaps ministers do not deal with issues that have been raised during the debate as a result of distractions in the chamber at that time. There may be opportunities to reduce the time that is made available to front-bench members and to allocate some of that time to back-bench members.

We will never please members. I am sure that the challenge of pleasing members is also faced by the Presiding Officers and at Westminster. Members will never say, "I have been allocated enough time and I am satisfied." I certainly do not support the Westminster approach whereby members talk at great length and there are none of the robust exchanges and short interventions that take place in the Scottish Parliament. Our current system is the best option. The only other option would be to do what Gil Paterson and other committee members do not want to do, which is take up constituency or committee time. That is the world that we have to live in.

The Convener: I am delighted with the proposal to reduce time for closing speeches—that is the most difficult part of the day and the point at which everybody wants to overrun. If one goes into that period on the nail, there is always a fight against losing time. It is far easier to control the length of opening speeches—indeed, if things are tough, back benchers in between will accept the four-minute ruling.

Paul Martin is right. If members are told that they have five minutes, they will edge towards six

minutes and if they are told that they have six minutes, they will edge towards seven minutes. By and large, they can expand beyond any limits that are set.

Members face a severe challenge in getting their points across in four minutes. Members at Westminster may have the luxury of 10, 12 or 20 minutes, so MSPs are being asked to do a much harder job. Some members are good at saying what they want to say in such a time, but I find four minutes frustrating. Not much ground can be covered and an argument cannot be built up. Even in a four-minute speech, there can be resistance. Members should take interventions in four-minute speeches, but many members say that they do not have enough time to give way. There would be more exchanges if members had six or seven minutes, but if they had that long, a price would have to be paid and something in the system would have to give.

Donald Gorrie: I was struck by some things that Ken Macintosh and Fiona Hyslop said. Often, I fill slots in the middle of debates that no member of my party really wants. I trundle out loyally to make speeches.

The Convener: You speak on everything.

Donald Gorrie: I do not. I speak on many matters, but would like to speak on other matters on which perhaps three members have said that they want to speak and I do not get a shot.

Fiona Hyslop made a point, which was similar to other points that we have made, about business managers needing to know further in advance what is to be debated. Currently, we go through who will speak during the week on Tuesdays, but a timetable has already been fixed up. A more flexible approach and knowing about the debates that will take place and what the popular and unpopular subjects are would certainly help.

I have suggested that, if interventions are taken into account, speeches should be around six or seven minutes. If, at that point, the Presiding Officer says that the member has to finish, they should not be allowed to drift on.

Mr Paterson: I do not think that any of us thinks that four minutes is a good idea. Indeed, back-bench members, in particular, do not think that the way in which debates are structured is a good idea. We have to find a mechanism that would allow back benchers to contribute more often. We have to make our debates worth while and four-minute speeches make a mockery of the proceedings; it is not possible to say anything meaningful in that time.

I am not suggesting that we should be given 10 minutes. However, if two-day slots were allocated for big debates, 10 minutes could be allowed.

Although some people do not want to listen for even 10 seconds, never mind 10 minutes, others want to hear what members have to say. We do not do the Parliament justice if we allocate four minutes for speeches. That makes us look like a toy-town Parliament rather than a real debating chamber.

Paul Martin: I am not saying that I am happy with four minutes. I agree with you on that point but if we were to do what you suggest, something would have to give. Everyone wants to speak in popular debates and if speeches were extended to seven minutes, some members would not get a chance to speak. Ken Macintosh will remember the health debate in September. The demand to speak in that debate was such that neither Ken nor I got a chance to speak.

We cannot have the best of both worlds, and that is a concern. When the Scottish Parliament is compared with Westminster, however, it is clear that MSPs have a good opportunity to make speeches whereas it is considered a great honour to speak at Westminster once every so often. That is one of the advantages of the Scottish Parliament.

Donald Gorrie, who contributes to many debates, is able to put across a number of points in a short space of time. I appreciate that the longer the speech, the more we are able to do that. Four minutes is never going to be ideal, but it is the best we can achieve unless we look at ways of reducing the length of front-bench speeches.

The paper mentions the length of ministerial answers, although some members, including myself, complain that ministers do not spend long enough on their responses. Gil Paterson has not set out how to deal with the issue of where we are to find the time for longer speeches. If two minutes were added to each speech, how many members could be included in a debate? I calculate that it would be eight to 10 speakers, which would mean that an additional 20 minutes would have to be found for back-bench contributions. From where would that time be found? One way of addressing the issue would be to extend into the Parliament's two-hour lunch period. If, however, the time for plenary debate remains static, there is nowhere for us to go.

The Convener: I do not want to enter into a discussion about how we might change the shape of the day on Wednesdays, as we will discuss that next week. There is a clear perception that only so much can be got out of the existing time. If we take a realistic look at the time that the minister is given to open a debate and at the number of members who want to intervene during that speech, if the speech is on an important issue, it is hard to see how much time could be squeezed from opening speeches. It is impossible to

squeeze time from the closing speeches—if anything, we need longer for them.

If there were to be longer speeches in the middle of debates, there would have to be fewer participants. If there were fewer participants, fewer members would attend the debates in the first place. Most debates these days tend to be attended by members who are caught up in the issue; not that many extra people are there.

I do not think that there are any easy hits in the shape of the parliamentary week. For heaven's sake, we keep saying that we would like more time for this and more time for that, but I do not see a source for all that extra time. I do not think that there are ready answers, unless we were to reconsider Wednesdays. However, the shape of Wednesdays is a separate topic for discussion.

Fiona Hyslop: There are two practical suggestions, the first of which is having an earlier start and shorter lunch time on a Thursday afternoon. Secondly, the way to cut down on front-bench speakers would be to acknowledge that when there is a coalition Government, the Executive parties should have one lead spokesperson with the Opposition following. That was a controversial issue at the beginning of the Parliament, because the system meant that if a Labour minister were opening, the Liberal Democrats could also be given extended time for opening speeches.

That second suggestion is controversial and I am not sure that it would get support—certainly not from the people around this table. However, it would be one way of creating more time for back benchers. If a Liberal Democrat minister were leading, the Labour members would get only the same amount of time as an ordinary member.

The Convener: You might not have noticed, but in many debates the Liberal Democrats do not provide a back-bench speaker between their opening and closing speakers. If there are any such speakers, there might only be one and not two. I do not see any evidence of a definite strategy, although there might be one. The Liberal Democrats have probably compensated for what they gained from the opening speech extension.

In most debates, other than those on something like fishing or other rural issues in which the Liberals are interested, if there is scope for two Conservative back benchers to speak, only one Liberal back bencher might speak, and if there is scope for only one Conservative to speak, no Liberal Democrat might speak at all. I do not know that there is an argument for saying that the Liberal Democrats get more than their fair share of the overall time allocation.

I suggest that we talk about question time next week when we consider the shape of the

parliamentary week, so we will skip item 3 and go to item 4, which covers an important point that we have skirted around but not addressed.

Mr Paterson: The paragraph speaks for itself. By and large, written answers do not bear any relation to the questions that are posed. Some ministers are better than others. I have asked questions but do not know how to induce ministers to give a reasonable and coherent answer.

The Convener: It was enormously gratuitous of you to say that answers bear no relation to the questions asked. Most of the questions that I have asked—and there have been a few—have been given clearly relevant and to-the-point answers. Sometimes bits are missed out of answers and sometimes members might feel that they have not been given all the information that they want. I have always found that supplementary questions, although they are tedious to do, will help.

The issue of whether an answer is relevant might arise during answers that are given in the chamber. I do not think that it is a huge problem with written answers and, if it is, it might reflect a lack of clarity in the question. We have addressed that question elsewhere by suggesting that civil servants should be encouraged to discuss with members what they are looking for in an answer.

We discussed oral questioning before, but did not come to any conclusions. If a member challenges the relevance of an answer, the Presiding Officer will say that the content of the answer is not a matter for him. Standing orders require only that supplementary questions are relevant to the lead question; there is nothing that demands relevance in the answers.

The Speaker of the New Zealand Parliament was here a couple of months ago and we discussed the issue with him. The clerks dug out the standing orders from New Zealand, which require answers to be relevant. That rule must put more pressure on the Speaker, who must sit and listen to every answer and decide whether it is relevant. It would be possible for us to include a relevance clause in our standing orders. We will dig out those standing orders for further discussion. We should have thought to bring them to this meeting, but we can bring them to the meeting next week.

We will probably agree on the issue of relevance, as nobody would defend the practice of giving irrelevant answers. If members find that the written questions that they submit are not getting proper answers, that may be a consequence of the question that has been asked or because the Executive is just not being co-operative, and members may have to think of better ways of getting the answers that they are after.

12:00

I remember an exchange that I had with Henry McLeish about two years ago, before he was First Minister. He gave me a one-word answer—"No"—which I thought was not fair at all. However, he ended up having to give fairly detailed answers to half a dozen supplementary questions. It is always possible to go back to a question. If the premise of the question has not been accepted or understood, it is up to members to think of other ways to get the answers that they want. Another way of approaching a minister is by letter. Often, members receive better replies to letters than to questions, as the Executive seems to be more forthcoming in letters. However, I do not recognise the problem of members who are after information or an expression of views getting, by and large, irrelevant answers. That is not my experience.

Mr Paterson: Perhaps I should not have said "By and large", but quite a lot of questions have to be asked again. Personally, I follow up the matter and pose other questions, but it is frustrating to have to do that. I voice this opinion not just on my own behalf, but on behalf of other members who complain that they do not receive proper answers to questions.

The system that we have adopted allows ministers to give non-answers to questions. They know that all they have to do is to get past the original question and a supplementary question and then somebody else will ask a question that is likely to go slightly off the subject of the original question. The way to get round that would be to have subject questions, whereby a particular minister is questioned on a particular day. That would enable members from all parties to pick up strands of the original question to ensure that the minister answers the question. At the moment, it is dead easy for ministers to get off the hook because they know that no one will follow up the question. They think, "If I can get past this question, that will be me for another week."

The Convener: Okay. We will talk about subject questions and changing the shape of question time another day. Do members have any other points to raise?

Donald Gorrie: At a previous meeting, I proposed that the committee should act as a sort of referee in deciding whether questions have been answered properly or whether MSPs are unduly badgering a particular minister, but I did not receive support for that idea.

The Convener: No, you did not.

Donald Gorrie: I produced examples of questions that were quite straightforward but that had quite straightforwardly not been answered at all. That certainly happens. It is not correct to say that that happens because questions are badly

written, although that might be the case on some occasions.

The Convener: I do not sit and read the written answers report every week, although perhaps I should. It might be instructive.

Donald Gorrie: No, I do not either. It just raises the blood pressure to read that a member has asked why something has been done and has got an answer that does not cover the issue at all.

Paul Martin: I have some sympathy for what Gil Paterson and Donald Gorrie are saying. It is all about fair play in the Parliament. The Executive must be encouraged not to be guarded, but to be free with information during the process. I am not against the format of question time. What alternatives are there? Some ministers are very good at it and some are more guarded. There are different styles and approaches.

We must acknowledge that members also have different styles of asking questions. Fair play on both sides is required. There are members who want to grandstand on particular points rather than have a constructive exchange. We have all been guilty of that at one time or another. We are not all flawless. Some of us ask questions that do not help to extract the most constructive answer. Sometimes a member will receive a particular answer because of the way in which the question was asked.

A balance must be struck. There have been examples of members asking quite legitimate and fair questions. A reply of "No" is not helpful; it is not sufficient and does not help the parliamentary process. That goes for anybody, whether it be the First Minister or a minister.

From what Gil Paterson has said, there are ways in which a code of conduct could be established that we should consider. A process could be followed, such as the New Zealand example. I do not see any reason why the Presiding Officer should not be able to tell a minister that a clear question was asked and that he or she went round the houses and did not answer it. It is most frustrating for members to receive quite lengthy responses that bear absolutely no resemblance to the question. They know that civil servants have advised the minister to talk it out.

To be fair, I do not think that the format is the problem. The format is being abused, but it is open to abuse. I have much sympathy with what Gil Paterson said. It is not just Opposition members who have raised concerns about it.

The subject of written answers was raised. I think that MSPs have a fundamental right to have their question responded to as part of the *Official Report*. People always say that an issue can be

followed up in correspondence, but sometimes a member, for the benefit of constituents, wants to ensure that the issue is in the *Official Report*. Members are criticised in the media for not raising particular issues, but they raise issues not just by asking questions in Parliament, but via correspondence. The New Zealand experience might be one upon which we can reflect and take further action.

The Convener: We will get the information circulated to inform future, and perhaps final, discussion of the matter.

Mr Paterson: The next point refers to members' business. The statement is quite clear and simple:

"Members' Business belongs to the members"

—and no one else.

A way to give members' business back to the members would be to have an exhaustive ballot. All eligible members would put their motion into the ballot, and if it was drawn, it would be debated. It would not have to be debated. Events could overtake the motion and it could be withdrawn and another one introduced. If a member were successful in the draw, then he or she would fall out of the ballot. Gradually, everyone would get his or her fair opportunity to have a debate.

I am not saying that the current system is not fair, but decisions are taken outwith members' control, by someone else, behind closed doors in the bureau, and I do not think that that is right. The decisions should be open and fair and made for all to see. It would be so simple, and much easier and more successful than the lottery.

The Convener: Do members have any thoughts? Do you fancy a ballot?

Mr Macintosh: I am quite taken with the idea. Having not had any members' debates for the first two years of the Parliament and then getting two at once, I find the entire system a bit daft. I am not quite sure. One problem is that the timing of a debate is quite important. A member might want to raise a certain issue on a certain day. They will want to have it within a couple days, or at least a couple of weeks, of an event. That flexibility is missing.

An exhaustive ballot would be quite fair. I am not sure how many slots we have for members' business debates and whether they divide up equally among back benchers. Is the number of MSPs reflected, so that members have two slots over the four years for example?

The Convener: Would a ballot be subject to party quotas or would everybody participate? If everybody participated, would members be allowed to lodge any number of motions but to have only one starred motion at a time? Unless a

system similar to that for oral questions were adopted in which only one question is live, to make the system fair for everybody who participates, how would serial motion writers who lodge loads of motions be prevented from having a better chance of a hit?

Mr Paterson: Ken Macintosh's point is the most pertinent and makes the proposal less attractive. I have had a members' business debate at a crucial time—an anniversary.

The Convener: The bureau would have to put the members' business motion in the business motion, so that it could be authorised to negotiate changes. Debates have been held on some anniversaries. It would not have been sensible to debate the 50th anniversary of the Nordic Council at any time other than on a date that was close to that anniversary.

In balloting and agreeing to subjects, some negotiation could be agreed on. Some motions could also be removed from the ballot because a bid had been made for a slot to be made available for an anniversary debate, which would mean taking a different approach. There would be ways round the issue.

Mr Paterson: That said, we have gathered evidence that suggests that holding committee meetings wholly or partly in private is not a good idea, yet the bureau meets in private and members' business motions are deliberated in private. The Parliament would gain an immense benefit if those discussions were open.

My system would deal with only one motion at a time. Two weeks after it was lodged, a motion might well not be relevant, so it could be withdrawn. The member involved would not necessarily need to lodge another motion, but they could put one back in the pot whenever they liked. A member who was successful would be out of the race. The people who were left in the race would be those who had not had a members' business debate.

Paul Martin: I have difficulties with the proposal, for several reasons. When Gil Paterson mentions members, I do not know whether he means all members or just back benchers.

Mr Paterson: I mean all eligible members.

Paul Martin: That clarifies that point.

My concern is that, under the proposed system, motions would have to be popular before the Parliament would consider debating them. The members' business process must be about members raising issues that are important to them but which might not be popular with the whole Parliament. Members might say, "We are not happy with Paul Martin presenting an agenda that relates to Glasgow. He is going on about Glasgow,

but look at all the problems in our regions.” The process would become populist, instead of involving a business manager considering that members have a right to raise their own issues.

It has been said that business managers might prevent some members’ business motions from being discussed because they are not in line with party opinion, although I have never experienced that. I am not aware that any members have been in such a position, and some controversial issues have been discussed.

My only difficulty is that the proposed system would require a populist approach. As part of the ballot process, members might have to please all members with their motion. I appreciate that members have the opportunity to support a motion by adding their names to it, but that is not a guarantee that motions will be debated.

Mr Paterson: I imagine that the ballot would involve someone such as the Presiding Officer picking a motion.

Paul Martin: I am sorry. I misunderstood.

The Convener: I am glad that it was you.

Paul Martin: Did you say an exhaustive ballot?

Fiona Hyslop: That means that when someone is out, they are out.

Mr Paterson: Exhaustive means that when a member has had their opportunity, they are out of the race.

Paul Martin: I am sorry—I am completely lost, which is my fault. You meant a random form of selection.

Mr Paterson: Precisely.

12:15

Fiona Hyslop: I have some sympathy with Gil Paterson’s view. We want fairness and co-ordination in the selection of motions for members’ business debates. We also want relevance to be a consideration. That might mean topicality—a particular date, for example—or content. Paul Martin is right. The members’ business slot offers an opportunity to debate topics that it is important to debate, even though they might not be the most popular subjects. We need to examine the issue on those three grounds.

I do not mind who co-ordinates the process, as long as it is co-ordinated. I do not like the idea of an exhaustive ballot, because that would mean that once a member was out, they would be out. The Scottish National Party tries to operate a fair system for members’ business debates that gives members who have not previously secured a motion for debate or who have not done so for a long time more chance of being nominated. The

danger of an exhaustive ballot is that it could mean exclusion from lodging a motion for debate for two years. An issue of vital importance in a member’s constituency might arise just after a debate in their name has been held on a more general topic. Denying members the opportunity to raise a constituency issue on the ground that they have dropped out of an exhaustive ballot is wrong.

In my judgment, the right criteria are fairness, co-ordination—which will ensure a balance in relation to the time that different topics are allocated—and relevance. That is how the issue is perceived at the moment. I am not aware of complaints about our present system. Sometimes it is necessary to have a members’ business debate on a particular subject at short notice. For example, there was a significant time factor in relation to the issue of the social club at Polmont. Politics are involved in decisions about members’ business debates. Leaving the selection of debates to chance would take the politics out of the process.

A member might lodge a completely daft motion for debate—I do not mean a motion that is not populist; I mean an embarrassing motion. Checks and balances are necessary to ensure that daft motions are not accepted. If we had a random ballot, the question of who vets the content of motions would arise. Fairness, co-ordination and relevance are the crucial factors. I am not sure that an exhaustive ballot would properly take those factors into account.

I do not mind which body is involved in the selection process. Although the bureau or the business manager need not be involved, there needs to be co-ordination and a judgment about relevance.

Donald Gorrie: A solution to the argument would be a back-benchers committee. There has to be a choice. I accept that there are political issues.

There are usually two sorts of motions: those on general sorts of issues, such as bread and circuses, and those on specific issues, such as “I want bread and circuses in Glasgow.” Both kinds of motion deserve reasonable coverage. I would like motions for members’ business debates to be chosen by members in a democratic fashion.

At the moment, the motions are selected along party-political lines. That is a mistake; it is not how we started out. The practice that seems to have developed is that each party gets its shot on a proportional basis and it is up to each party to determine which motion to put forward. The selection of motions should be a wider parliamentary issue. There should be a democratic element and I would hope that a back-benchers committee would achieve that.

Mr Macintosh: There are pluses and minuses to having a ballot. If there were not to be a ballot, I would like to add transparency to Fiona Hyslop's list. At present, the criteria for selecting motions are not very transparent. The motions that I submitted that were selected had huge support. I assume that that is why they were selected. They did not necessarily deal with the issues that were the most important to me; they just happened to be the motions that were the most widely supported by the other back benchers. Even I was unclear about whether that was why they were selected.

The Convener: You would have to ask your business manager to find out why they were selected.

Mr Macintosh: I was so grateful to secure the debate that I did not want to ask any questions.

The Convener: The issue has been raised. We will discuss a back-benchers committee at some point. Such a committee would be a mechanism for monitoring the matter, if that were needed. I suggest that we leave the matter and reflect on it. If we are to take a decision on it at some stage, we will need some specific text and a proper point to insert in the report. We can think about that and make a decision when we come to discuss our final recommendations. I am reluctant to do any more than that. It is clear that the idea is worth examining, but there are some practical reservations. The idea might work, or it might not. We should discuss it further.

We have already dealt with motions and amendments and with committees being held in private or in public. I think that those issues were discussed in relation to the section on access and participation; it was earlier in the report anyway. We have come up with a form of words about committees dealing with reports on their inquiries and on legislation. All such matters are up for final agreement or disagreement.

We have also dealt with the question of the name of the Executive. Indeed, we have recommended somewhere in the report that the Executive should consider the matter and examine whether and how it should consult on a name change. Furthermore, we have discussed the proposal for a back-benchers committee, which has been put on the agenda for further discussion in the power-sharing section of the report. I think that that brings us to the end of Gil Paterson's suggestions for the moment.

Mr Paterson: Thanks very much.

The Convener: Donald Gorrie has made some further notes and suggestions for the report. We have already discussed the first item, on the involvement of non-MSPs in committees. We have not discussed the second item, in relation to this

piece of work, although the committee has discussed it before. Item three is a version of an issue that Donald has raised before. I invite him to lead the discussion on the second and third items in his supplementary paper.

Donald Gorrie: The second item was suggested by a specific example of an MSP with a particular interest in a subject who attended a committee meeting and was turfed out when the committee came to discuss its report because that discussion was being held in private. I would have thought that any MSP should be allowed to go to any parliamentary meeting—I see no reason why he or she should not. I have suggested that members should be able to attend such meetings; they would not have a vote but could speak if allowed to do so.

The third item is my response to David Steel's remarkable idea of having a second chamber. I have written a piece about that proposal that I am going to tout round some newspapers—we all have bad ideas sometimes, and it seems to me that that was certainly one of them.

I have been reflecting on members' previous suggestions on how to improve still further the methods for dealing with legislation. When stage 3 amendments have been lodged, there is no real opportunity to discuss them in the same way as committees do at stage 2. There should be an opportunity for the committee in question, if it wished, to go through the amendments with the minister saying, "Well, you have proposed this amendment to meet the point that we raised at stage 2, but we don't think it does." The minister might disagree and both sides could discuss the matter more fully. Likewise, the committee could have discussions with any outside bodies that are still unhappy about certain aspects of a bill. I suppose that that would constitute stage 3a, because it would provide an opportunity to amend stage 3 amendments before a final date, after which the bill would go before Parliament.

I suppose that I am seeking to improve the quality of stage 3 amendments and to secure consensus, where possible, round them. On the whole, when a bill reaches the full Parliament, many members simply sit and listen to a rehash of arguments without really understanding the issues, and vote as instructed by their hymn-sheet. There should be another opportunity for a committee that understands the matter more fully to go into it again. That was the genesis of the idea.

Mr Macintosh: At first glance, I agreed with the proposals about meetings in private. When I saw the original ruling, I thought that it was odd. In practice, MSPs rarely have the chance to attend meetings of committees of which they are not members. Much as we thought we would do that

to begin with, time constraints mean that it is not generally possible.

I would have little objection to most back benchers coming into most private sessions of our meetings. However, if we are discussing a report, entering into a lot of detail about evidence that has been taken and discussing controversial matters—perhaps taking a vote during the private session—I am not sure that the presence of MSPs who are not members of that committee would be helpful. I assume that, if they were there, they would be observers only. It might be a little off-putting if a party spokesperson sat in on such a meeting, even if they did not do or say anything.

In particular, I do not think that it would be right for other MSPs to come into a meeting in private of the Standards Committee. I have never wanted to sit in on a private session, although I have some sympathy with the suggestion that that be made possible. If I were interested in the deliberations of a committee that decided to go into private session and I was suddenly chucked out of the room, I would feel excluded or slightly aggrieved. However, I am not sure whether the proposal before us provides the solution.

The Convener: I have some sympathy with the proposal, but if a party spokesman wanted to sit in on a committee when it was concluding its deliberations over a draft report, the convener could exercise their discretion and say cheerio to that party spokesman.

I think that Donald Gorrie has in mind a member who has attached himself or herself to a committee for the duration of a specific piece of work over a given period of time. A member in that position might have been squeezed out of some briefing meetings or meetings at which a draft report is under consideration, despite the fact that they have followed the evidence given to the committee in public and have been part of the process.

I suspect that such situations do not arise often, but I know of some. I would have thought that, in general, if a convener were to let someone into the committee room and the committee were not happy about it, the convener would have made a misjudgment and the committee members would not be slow to let them know. If someone has contributed to a committee's work over, say, two months, I think that the committee would accept their presence. The situation would almost regulate itself.

I do not think that an MSP would wish to attend a private part of a meeting unless they had a good case for doing so, or that a convener would agree to that unless they felt that the committee members would agree. Such situations would arise rarely, although I am sympathetic to the proposal in principle.

Paul Martin: Has a member not already attended a—

The Convener: No.

Paul Martin: It happened with the Social Justice Committee, when it was agreed to let a non-committee member come into the meeting during a private session. That might have been for consideration of a report.

The Convener: That could happen only if the member in question were a substitute and were attending in that capacity. Otherwise, the committee might decide to hold what was going to be a private session in public. The situation arose during consideration of the School Meals (Scotland) Bill, which was Tommy Sheridan's bill. That is the only example that I can think of. The committee in question was concluding its stage 1 report and felt that it could not do so without Tommy's participation.

Paul Martin: That was my point: the situation has already arisen.

The Convener: No—it was decided to hold the meeting in public in that instance, so that Tommy Sheridan could participate. If the committee had gone into private, which committees usually do at that stage, although Tommy had contributed to the debate all the way through, he would have been excluded. To avoid that, the committee held its meeting in public.

It is a double-edged sword: if committees are told that they may have other members at their private meetings under such circumstances, then an incentive to hold business in public is removed. That is a separate issue, however.

Paul Martin: I have some concerns. I sympathise with Donald Gorrie over the way in which MSPs who are not members of a committee are treated during that committee's meetings. There is no requirement on the convener to call those members to speak during the meeting because they have no automatic right to speak. I have raised that matter in the Health and Community Care Committee. Under standing orders, no such requirement exists, but the convener can decide to call any member to participate in a committee's proceedings. There are some issues about the participation of MSPs in committees of which they are not members. I thought that, in theory, members can participate in any committee, but either they can participate or they cannot. I have sympathy with Donald's comments.

I am concerned that members who are not on a committee have complained of being treated as second-class citizens when they attend that committee's meetings. They have been told that they will be called only after members of the

committee have had the opportunity to contribute. Committee members might complain about external members coming in and wanting to be given priority, but we need some balance. It should not be left until the end for people who are not committee members to pose their questions. That might be an unpopular opinion with members of the Audit Committee, for example, who want the opportunity to ask questions before external members do so. However, we have to clarify the role in committees of people who are not committee members. We need to consider their role more widely than just how it affects meetings in private.

12:30

The Convener: Such members are present at the convener's discretion, but the convener should be sympathetic and welcoming to someone who has come to a committee for a specific purpose and give them a reasonable cut at the discussion. Committee members may get edgy if the visitor tries to dominate or take over the debate, so it is a question of skilful intervention by the outside member and skilful convenership. I do not think that we could specify how that should be done, except to say that the code of conduct contains the expectation that all members should always try to be courteous to and co-operative with one another.

In raising the issue, Donald Gorrie is not challenging chairmanships or implying poor judgment; he is challenging an interpretation of standing orders that says that something is not allowed to happen. He is also saying that whether convening is done skilfully or not—I hope that it is done well—it should be possible for someone to be part of a committee's work. He is not suggesting we should all go to hear what is said in private meetings. A person's presence at a meeting must be accepted by those in the meeting; to achieve that acceptance, a person must earn their spurs by doing the background work.

If there were a general wish to include Donald Gorrie's suggestion, we could work up some additional text for the section on committee confidentiality and discretion. Thereafter, we could consider that text and decide whether we want to include it. Shall we do that?

Members indicated agreement.

Donald Gorrie: Interesting points have been raised. If a non-member may attend a private meeting with the agreement of the convener, it would create issues for the Standards Committee, for example.

The Convener: There may be matters that are commercially confidential. If you remember, we

drew up a list of clear-cut issues that we thought should properly be taken in private. I do not have that list in front of me, but we can probably agree that during discussion of those issues we would not want someone to be present who was not on the committee. Why would a committee have someone who was not a member coming in to help to appoint a committee adviser? If someone were making a standards complaint against another member, they would not want half the Parliament to hear about whom or what they were complaining. Some areas would be restricted.

I shall write a couple of paragraphs to explain the issue, consider the circumstances where we think restrictions may be appropriate and make a recommendation on that basis. I shall suggest where that text should be included, and it will be a matter for our judgment whether we run with it.

Donald Gorrie: As my third point, which is about stage 3 of the legislative process, is new, members might wish to reflect on it. We could deal with it later along with other issues. It was a constructive suggestion.

The Convener: That would be helpful.

As it is past half-past 12, it would be nonsensical to make a start on my paper on power sharing. The reason why that paper appeared when it did was that I was still working on it on Sunday. In fact, I finished off bits of it on Monday morning. The paper was typed up and prepared speedily, but given the time required for that necessary processing, members could not have received it any earlier than yesterday afternoon. I have no difficulty with holding back consideration of the paper.

At the next meeting, we will go through for a second time the 50 or 60 paragraphs at the end of the section on accountability. Those paragraphs will be ready for consideration later this week, when they will be circulated by e-mail. Next week, we will consider the sections on accountability and power sharing and the questionnaire on the shape of the parliamentary week. When we have done that and had the opportunity to pick over the *Official Report* of the final meeting of last year—and, I hope, the *Official Report* of this meeting—we should be left with a sufficiently small number of areas of difficulty to be able to finish them off in one meeting. That meeting will probably be in a further fortnight because I want members to have time after the second run-through with the underlined text to go back over the whole report. That will allow members to identify points that they did not challenge at the time but, on reflection, they want to raise because they are not happy about a certain aspect. Members should have a couple of weeks to think about the final report. I hope that we can complete the business in one final meeting.

Donald Gorrie: Just to be clear, is there a meeting next week?

The Convener: Yes.

Donald Gorrie: Will there be a meeting the following week, but probably not one the week after that?

The Convener: I had better not be categorical. We will have a meeting next week, at which we will deal with the rest of the section on accountability and the power sharing issue. That will complete our second run-through of the report. We will also deal with the questionnaire on the shape of the parliamentary week.

I think that then we will have a blank week, but members should put it in their diaries that we will meet every Tuesday. We will take a view at next week's meeting about whether we need to meet in the following week or whether we need a fortnight to reflect on what we have done.

Donald Gorrie: I wanted to know so that I could inform other committee clerks whether I will attend meetings.

The Convener: Okay. That concludes the business.

Meeting closed at 12:37.

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